

ATTACHMENT L-1

**COMMENTS AND RESPONSES
ON THE
DRAFT SECTION 4(F) AND SECTION 6(F)
EVALUATION**

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"Eastern Shawnee
Tribe Chief
Enyart"
<estochief@hotmail.com>
05/26/2005 01:37 PM
To
9-AGL-600-OMPEIS/AGL/FAA@FAA
cc
Subject
106 CONSULTATION

050526_01

Comment	Response
1	Comment noted. In the event that any items falling under the NAGPRA are discovered during construction, the Eastern Shawnee Tribe will be notified and further consulted.
2	FAA acknowledges that the Eastern Shawnee Tribe has no objection to the proposed construction.

May 26, 2005

RE: NOTICE OF DRAFT O'HARE MODERNIZATION SECTION 303/4(f)
and Section 6(f)

To Whom It May Concern:

Thank you for notice of the referenced project(s). The Eastern Shawnee Tribe of Oklahoma is currently unaware of any documentation directly linking Indian Religious Sites to the proposed construction. In the event any items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered during construction, the Eastern Shawnee Tribe request notification and further consultation.

The Eastern Shawnee Tribe has no objection to the proposed construction. However, if any human skeletal remains and/or any objects falling under NAGPRA are uncovered during construction, the construction should stop immediately, and the appropriate persons, including state and tribal NAGPRA representatives contacted.

Sincerely,
Jo Ann Beckham, Administrative Assistant
Eastern Shawnee Tribe of Oklahoma

1

2

jean public
 <jeanpublic@yahoo
 .com>
 05/28/2005 10:52 AM
 To
 9-AGL-600-OMPEIS/AGL/FAA@FAA
 cc
 jack@areco.org,
 rodney.frelinghuysen@mail.house.gov
 Subject
 public comment on federal register
 of 5/20/05 vol 70 no 97 pg 29374

050528_01

usdot faa - noa draft o hare modernization section
 303/4f for proposed new runways and associated
 development at o hare intl airport -

i do not favor enhancing capacity of the national
 airspace system at o hare or any other airport in
 america. i oppose this proposal specifically. there
 is not consideration for the effects of pollution from
 this method of transportation and the bad effects on
 air, the noise level and the danger from all this
 congested air space.

FAA is so much in the pocket of the aviation industry
 that it completely neglects those of us on the ground.
 We deserve more since we are clearly in the majority
 and are being negatively impacted by all of this
 aviation development.

our world is NOT infinite. FAA fails to understand
 that.

b. sachau
 15 elm st
 florham park nj 07932

Comment	Response
1	<p>The commenter's opposition to the project is noted. The commenter has raised a number of the same issues raised in comments received on the Draft Environmental Impact Statement (Draft EIS). The FAA's response to these comments received on the Draft EIS can be found in Volumes 8, 9, and 10. The commenter is directed, specifically to Volume 9 containing Section U.5, Topical Responses.</p> <p>In response to the comments, please see topical responses: A-1 (page U.5-2), C-7 (page U.5-20), D-1 (page U.5-21), E-1 (page U.5-25), and M-1 (page U.5-46).</p>
2	FAA disagrees with the commenter's opinion.
3	Commenter's opinion is noted.

050615_01



"MESKWAKI NATION"

Sac & Fox Tribe of the Mississippi in Iowa

349 Meskwaki Road, Tama, IA 52339-9629 • (641) 484-4678 FAX (641) 484-5424

June 15, 2005

Mr. Mike MacMullen
Federal Aviation Administration
2300 East Devon Avenue
Des Plaines, IL 60018

Dear Mr. MacMullen:

Thank you for your letters of June 03, 2005 concerning the projects:

**Draft O'Hare Modernization
Section 3/4 (f) and Section 6 (f)
Chicago, IL**

**Draft Air Quality General Conformity Determination
Chicago O'Hare International Airport
Chicago, IL**

At this time, the Historical Preservation Department of the Sac and Fox of the Mississippi in Iowa has determined the above listed has:

- ☐ No interest in the area geographically
- ☐ No comment on the proposed undertaking
- ☒ No objections. However, if human skeletal remains and/or any objects falling under NAGPRA are uncovered during construction, please stop immediately and notify the NAGPRA Representative, Johnathan L. Buffalo.
- ☐ Have an objection or require additional project information. Please send the following: _____

Sincerely,

Johnathan L. Buffalo
Historical Preservation Coordinator
Sac and Fox of the Mississippi in Iowa

Cc: File



Comment	Response
1	FAA acknowledges that the Sac & Fox Tribe of the Mississippi in Iowa has no objection to the Section 4(f) and Section 6(f) Evaluation. If human skeletal remains and/or any objects falling under NAGPRA are uncovered during construction, the NAGPRA Representative of the Sac & Fox Tribe of the Mississippi in Iowa will be notified.

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O.Box 39 • Odanah, Wisconsin 54861

Tribal Historic Preservation Office

050617_01

June 3, 2005

U.S. DOT – Federal Aviation Administration
Great Lakes Region
Attn: Mr. Mike MacMullen
2300 East Devon Avenue
Des Plaines, Illinois 60018

**RE: Draft O'Hare Modernization Section 303/4(f)
And Section 6(f) Evaluation**

Dear Mr. MacMullen:

This is in response to a notice dated May 24, 2005 requesting comment on the above referenced site. The Bad River Tribal Historic Preservation Office is not aware of any Tribal Historic Properties or Tribal Cultural Resources in the area of potential effect and has found that this federal undertaking may not have a significant impact on Tribal Historic Properties or Cultural Resources. However, in the event that Cultural Resources of Native American Origin, Native American Human Remains, or Native American Historic Properties are discovered in the area of potential effect during post-review, this office requests immediate consultation to mitigate the impacts, if any, it may have on those resources/ remains/ properties. In the event of new ground breaking construction, we request that a Phase I Archaeological Survey be conducted in the area of potential effect, and provide this office with a courtesy copy of the completed survey, to comply with 36 CFR Ch. VIII, §800.4.

If we can provide you with further assistance, please feel free to contact me at the number below, extension 1662, or send an e-mail to: thpo@badriver.com.

Thank you for notifying us of this undertaking and maintaining compliance with Section 106 of the National Historic Preservation Act.

Sincerely,



Edith S. Leoso,
Bad River Tribal Historic Preservation Officer

Enclosure
ESL/cc: file w/ enclosure

Telephone (715) 682-7111

Fax (715) 682-7118

Comment	Response
1	Comment noted. In the event that Cultural Resources of Native American Origin, Native American Human Remains, or Native American Historic Properties are discovered during construction, the Bad River Band of Lake Superior Tribe of Chippewa Indians will be contacted.



CHICAGO PUBLIC SCHOOLS

Department of Operations • Office of Sean P. Murphy • Chief Operating Officer
125 South Clark Street, 16th floor • Chicago, Illinois 60603 • Telephone 773/533-2900 • FAX 773/533-2901

050622_01

June 22, 2005

Barry Cooper
Manager
Chicago Area Modernization Program Office
U.S. Department of Transportation
Federal Aviation Administration
Des Plaines, Illinois 60618

RE: Comments Requested for Draft O'Hare Modernization Section 303/4(f)
and Section 6(f)

Dear Mr. Cooper:

Your letter to Arne Duncan, Chief Executive Officer of the Chicago Public Schools, concerning the above subject, has been forwarded to me for response.

We have reviewed the information contained in your letter. The airport expansion will have virtually no affect on the operation of the schools in the vicinity. Most of the schools east of the airport have been noise abated. Therefore, the proposed runway changes will not adversely affect the physical operation of the schools.

Thank you for your letter.

If you have any questions about this letter, please contact Ms. Kristine Rull at (773) 553-2355.

Regards,


Sean P. Murphy
Chief Operating Officer

Cc Arne Duncan, Chief Executive Officer

Children First

Comment	Response
1	Comment noted.

050628_01



TRIBAL HISTORIC PRESERVATION OFFICE

June 28, 2005

US Dept. of Transportation
Federal Aviation Administration
Attn: Barry Cooper
2300 East Devon Ave.
Des Plaines, IL 60018

RE: Draft O'Hare Modernization Sec 303/4(f) and Sec 6(f); Draft Air Quality General
Conformity Determination

To Whom It May Concern:

The Osage Tribe of Oklahoma has evaluated the above reference sites, and we have determined that the site could have religious or cultural significance to the Osage Tribe being our former reservation & homeland. However, if construction activities should expose Osage archeological materials, such as bone, pottery, chipped stone, etc., we ask that construction activities cease, and this office be contacted so that an evaluation can be made.

Should you have any questions, you can reach me at (918) 287-5446.

Thank you.

Sincerely,

Anthony P. Whitehorn
Tribal Enterprise Manager

Comment	Response
1	Comment noted. If construction activities should expose archaeological materials, the Osage Tribe of Oklahoma will be contacted so that an evaluation can be made.

627 Grandview, Pawhuska, OK 74056, (918) 287-5446, Fax (918) 287-5562

07/06/2005 05:21 FAX 847 294 7046
07/05/05 15:57 FAX 312 454 0411

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NE IL PLAN COMM

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Mr. Barry Cooper
June 30, 2005
Page 2

proposed bikeway and make connections to existing and proposed regional open space as identified in the *Northeastern Illinois Regional Greenways and Trails Plan*.

3. There is research on the impacts of certain air pollutants on those who are engaging in outdoor physical activity, such as basketball, that requires greater oxygen intake makes them more sensitive to the impacts of air pollution. While the increases in air pollutants may not be enough to exceed federal standards, the proximity of parks to the project area may be a reason to investigate further. A good resource to connect with is the Chicago Chapter of the American Lung Association.

4. It is apparent that an incredible amount of work has been done to produce the document. To truly appreciate and efficiently review the wealth of information, reviewers could use some navigational assistance such as the following:

- A list of acronyms at the back of the document (DNL, LAWCON, TPC, PM_{2.5} etc)
- A glossary with brief definitions of terms (constructive use, Uniform Act, blended alternative, etc.)
- List of tables, arials, maps and charts as part of the table of contents
- Index

If you have any questions or comments about this review, please feel free to contact me at (312) 454-0400.

Sincerely,



Ron Thomas, AICP
Executive Director

LH:RT/th

Comment	Response
4	FAA notes NIPC's observation regarding the value of replacing lost park facilities. However, this is a matter best referred to the operators of the parks themselves.
5	FAA has carefully assessed the air quality impacts on parks in the O'Hare vicinity. As a result of this evaluation, FAA concludes that no substantial impairment or constructive use to the parks will occur, because there will be no exceedances of the NAAQS. The NAAQS are established in a process recognizing impacts on human health, including the health of children, the elderly, and those with asthma.
6	The FAA appreciates the suggestions provided in NIPC's comment. The Final Section 4(f) and 6(f) Evaluation is incorporated into the Final EIS. The Final EIS, specifically Chapter 8 of Volume 1, includes a list of acronyms, a glossary and an index. The table of contents for the Section 4(f) and 6(f) Evaluation has been expanded to include the list of exhibits, tables, and attachments.

"JAN NATION"
<JNATION@dnrmail.
state.il.us>
To
9-AGL-600-OMPEIS/AGL/FAA@FAA
cc
06/28/2005 02:25
PM

Subject
Review of Draft

050628_02

Mike,

Both Greg and I have finally had a chance to review the 4f/6f evaluation document. We both have no problems with the content regarding 6f issues, particularly Bensenville. Sorry it took so long. Jan

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Comment	Response
1	Comment noted.

BEFORE THE
FEDERAL AVIATION ADMINISTRATION
CHICAGO AIRPORTS DISTRICT OFFICE

In the matter of the)
)

DRAFT SECTION 4(f) AND SECTION
6(f) EVALUATION FOR THE O'HARE
MODERNIZATION PROGRAM (OMP))
)
)

COMMENTS ON
AND OBJECTIONS TO THE
DRAFT SECTION 4(f) AND SECTION 6(f) EVALUATION
FOR THE O'HARE MODERNIZATION PROGRAM

Communications with respect to this document should be addressed to:

Joseph V. Karaganis
KARAGANIS WHITE & MAGEL LTD
414 North Orleans Street
Chicago, Illinois 60610
(312) 836-1177

jkaraganis@k-w.com

Counsel for St. John's United Church
of Christ, Helen Runge, Shirley Steele,
Rest Haven Cemetery Association,
Robert Placek and Leroy Heinrich and
Roxanne Mitchell

Robert E. Cohn
Latane Montague
Alexander Van der Bellen
HOGAN & HARTSON LLP
555 Thirteenth Street, NW
Washington, DC 20004
202-637-4999
recohn@hhlaw.com

Counsel for The Village of
Bensenville and Elk Grove Village

July 5, 2005

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BEFORE THE
FEDERAL AVIATION ADMINISTRATION
CHICAGO AIRPORTS DISTRICT OFFICE

In the matter of the)
)

DRAFT SECTION 4(f) AND SECTION)
6(f) EVALUATION FOR THE O'HARE)
MODERNIZATION PROGRAM)
(OMP))
)

COMMENTS ON
AND OBJECTIONS TO THE
DRAFT SECTION 4(f) AND SECTION 6(f) EVALUATION
FOR THE O'HARE MODERNIZATION PROGRAM

I. Introduction.

The Village of Bensenville and Elk Grove Village (the "Community Objectors"), St. John's United Church of Christ, Helen Runge, Shirley Steele, Rest Haven Cemetery Association, Robert Placek and Leroy Heinrich (the "Religious Objectors") and Roxanne Mitchell representing the Homeowner Objectors¹ hereby submit these comments on and objections to the Federal Aviation Administration's ("FAA") Draft Section 4(f) and Section 6(f) Evaluation for the O'Hare Modernization Program (hereinafter, "Draft Evaluation").

The Draft Evaluation is premature, legally flawed and factually incorrect, and fails properly to examine the impacts of the OMP on section 4(f) and Section

¹ The Community, Religious and Homeowner Objectors are collectively referred to herein as the "Objectors."

6(f) resources. The FAA's lack of objectivity and bias in favor of the City's preferred alternative is demonstrated by the FAA's wholesale and incredibly superficial rejection of prudent and feasible alternatives² including blended alternatives in conjunction with on-airport configurations proposed by the air traffic controllers that would avoid the destruction of and impacts on Section 4(f) and 6(f) lands (including the religious cemeteries which are irreplaceable religious and historical resources). The FAA's continued rejection of viable alternatives is a legally fatal defect not only in the DEIS but in this Draft Evaluation as well.

The Draft Evaluation merely parrots the unsubstantiated conclusions contained in the FAA's Draft Environmental Impact Statement ("DEIS") in support of the City's preferred alternative in favor of all other alternatives. The alleged advantages of the City's OMP alternative were thoroughly and conclusively repudiated in the Objectors' Comments and the Report prepared by the Campbell-Hill Aviation Group, Inc. filed on April 6, 2005, and the Objections and Comments on the City's Benefit Cost Analysis and the accompanying Campbell-Hill critique of the City's BCA filed on June 5, 2005.

The errors and flaws in the Draft Evaluation are summarized below and discussed in detail in these Objections:

- The FAA's continued rejection of "blended alternatives" which employ congestion management at O'Hare (including a variety

² These include Alternatives H through L (and all variants of L) contained in the Objectors' April 6, 2005 and May 6, 2005 submissions.

Comment	Response
1	<p>The FAA disagrees with the commenter's characterization of the Draft Section 4(f) and Section 6(f) Evaluation (Draft Evaluation). The FAA notes that in response to these comments and others filed by these commenters' the FAA has added a detailed evaluation of the "alternatives" suggested herein. This evaluation is contained in Chapter 3, Section 3.6 of the Final EIS.</p> <p>Because much of this document is redundant with the commenter's prior submissions to the FAA, in most cases, the FAA has provided cross-reference to other responses that may enlighten the commenters as to the FAA's careful consideration of the issues raised herein. In many cases, the commenter has suggested "alternatives" and in those occurrences, the FAA has referred the commenter to the aforementioned Section 3.6 of the Final EIS.</p> <p>Finally, the FAA takes issue with the commenter's assertion that FAA has a "lack of objectivity and bias in favor of the City's preferred alternative." As noted in Chapter 3, Section 3.7 of the Final EIS, "[t]he FAA did not identify a preferred alternative in the Draft EIS, believing that this decision could best be made after consideration of all comments and subsequent analysis that post-dated the Draft EIS... Further, the Agency's careful scrutiny of the comments received on the Draft EIS, and the responses crafted to those comments (see Appendix U) provided additional insight into the identification of the preferred alternative."</p>
2	<p>The FAA notes that the Final Section 4(f) and Section 6(f) Evaluation (Final Evaluation) has been included in this Final EIS as this Appendix L.</p> <p>The commenter has noted that "[t]he alleged advantages of the City's OMP alternative were thoroughly and conclusively repudiated in the Objector's Comments and the Report prepared by the Campbell-Hill Aviation Group, Inc. filed on April 6, 2005, and the Objections and Comments on the City's Benefit Cost Analysis and the accompanying Campbell-Hill critique of the City's BCA filed on June 5, 2005." The FAA has separately responded to both of the April 6, 2005 filings mentioned, with <i>Karaganis-Cohn's April 6, 2005</i> comments on the DEIS beginning on page U.4-396 of Appendix U, and <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. In these FAA responses, the Agency has addressed the commenter's issues on the DEIS.</p> <p>With regard to the Campbell-Hill critique of the City's BCA, the FAA notes that the consideration of the BCA and the City's LOI is being considered by the FAA outside the NEPA process.</p>

of runway options at O'Hare), in conjunction with use of other airports, is unsustainable.

- The FAA has clear legal authority to impact traffic and service shifts to other airports and to impose congestion management.
 - The FAA's authority as to requests for federal funding of airport facilities (e.g., OMP and FAA's recent decision at LAX) necessarily causes changes in airline use of airports. Denial of the costly and ill-conceived OMP will influence how and where airlines meet consumer needs.
 - The FAA has plenary authority to utilize congestion management as part of a blended alternative. It is using it now at O'Hare, New York's LaGuardia (LGA) and Reagan-Washington National (DCA).
 - Contrary to the statements made by the FAA in the DEIS and Draft Evaluation, the FAA has recently acknowledged that use of other airports in combination with congestion management is a prudent and feasible means of accommodating demand that would otherwise use O'Hare.
- "With a large share of the passengers at O'Hare on connecting flights, hub carriers such as American and United Airlines would have many alternatives to reroute their passengers to their final destination. For example, on east-west flights, United Airlines would have the option of overflying O'Hare and routing passengers through their Midwest hub at Denver International Airport. Similarly, American Airlines could overfly O'Hare and serve passengers through their hub at the Dallas-Ft. Worth Airport. We believe that hub carriers could retain the connecting passengers on the remaining flights through alternative hub airports." FAA's *Preliminary Regulatory Evaluation, Initial Regulatory Flexibility Determination, Trade Impact Assessment, And Unfunded Mandates Assessment in Docket FAA-2005-20704*, Pages 40-41.
- The FAA has approved a blended alternative for the metro Los Angeles area and LAX.
 - The FAA recently approved a metropolitan-wide airport plan for the Los Angeles area which employs physical restrictions on

Comment	Response
3	<p>This summary comment is responded to in the subsection of this document where the comments are presented in greater detail.</p> <p>With regard to the quotation from the FAA's <i>Preliminary Regulatory Evaluation</i>, the Agency appreciates the commenter's reference to the choices that carriers (as opposed to the FAA) have in deciding how to provide service to their markets. As the FAA noted in the paragraph preceding the referenced quote on <i>page 41</i>, "[the carriers] manage complex network and revenue structures that are extremely interdependent with other considerations such as aircraft fleet and seat capacity, seat yields, code share and alliance agreements, competition, as well as various differential-pricing schemes." The FAA also noted, on <i>page 42</i>, that if O'Hare's operating capacity is increased, the "increased operating limits would help promote the competition goals, and contribute to lower price fairs and greater consumer access in air travel."</p>

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what will be built at LAX to limit the level of operations at LAX to the level equivalent to "No Build" while diverting excess LAX traffic to other airports.

- o Like the FAA's 2005 LAX decision, the FAA found the blended alternative of existing O'Hare runways — used in combination with demand management and use of other airports — to be feasible and prudent in its 1984 Record of Decision approving the blended alternative selected by Chicago in 1983. Explicit in the discussion and analysis of this alternative in the 1983 DEIS and 1984 ROD is the acceptance of a "blended alternative" whereby O'Hare would not be expanded to handle all of the forecast demand (*i.e.*, the so-called "unconstrained" demand) but the existing O'Hare runways would instead be used in combination with the use of other airports to handle the forecast demand.

- **The FAA's continued rejection of blended alternatives using other airports and congestion management is equally untenable because those very congestion management/reliance on other airport approaches will by necessity be required under either Phase One or full OMP because of the enormous delays that will be experienced soon after completion of these projects.**

As demonstrated herein and in the Objectors' April 6, 2005

Comments/Objections, the Objectors have presented prudent and feasible alternatives that would meet the asserted purpose and needs set forth in the DEIS. In particular, Alternative L-1, the proposal developed in conjunction with the O'Hare air traffic controllers, will add two new runways at O'Hare that will provide for triple simultaneous independent IFR arrivals. Alternative L-1 will, contrary to FAA's factually and technically unsupported conclusions, significantly increase the airport's IFR and VFR capacity, reduce delays and congestion, and, moreover, avoid the runway incursion safety concerns expressed by the controllers, all at a fraction of the cost of OMP and without the destructive impacts on the religious cemeteries, homes, businesses and 4(f)/6(f)

Comment	Response
4	With regard to the LAX ROD, the FAA refers the commenter to comment 138 of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-595.
5	The FAA disagrees with this assertion that appears to be based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0</i> of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525. Please see the responses to <i>Section 2.0</i> for basis of FAA's disagreement.
6	<p>As noted in response to comment 2, the FAA has separately responded to both of the April 6, 2005 filings mentioned, with <i>Karaganis-Cohn's April 6, 2005</i> comments on the DEIS beginning on page U.4-396 of Appendix U, and <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501.</p> <p>The FAA has carefully considered the commenter's "alternatives" L1 and L2 and has found that neither of these meet the purpose and need as outlined in Chapter 2 of the EIS. The basis for this conclusion can be found in Section 3.6 of the Final EIS.</p> <p>Furthermore, the FAA does not agree with the commenter that the full-build OMP will not meet the forecast demand at acceptable levels of delay. This assertion has been responded to in both <i>Karaganis-Cohn's April 6, 2005</i> comments on the DEIS beginning on page U.4-396 of Appendix U, and <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. The FAA notes that the OMP is projected to serve approximately 1.2 million operations in 2018 at an annual average delay of approximately 5.8 minutes per operation. In contrast, the existing airfield served approximately 990,000 operations in 2004 at annual average delay of approximately 18 minutes per operation.</p>

resources that will occur under OMP and Phase One. Alternative L-1 will meet the total ultimate forecast demand in the same way that Phase One and/or the illusory full build OMP-Master Plan will meet the forecast demand—as part of a blended alternative, which relies on other airports and on congestion management, because even under the full OMP the Objectors have shown that the airport will not meet forecast demand at acceptable levels of delay. See, Campbell-Hill Report dated April 6, 2005.

Each of the objections raised by the FAA to Alternatives L-1 and L-2 is without merit and has been refuted by prominent aviation experts, including former senior FAA officials with expertise in these matters (Mr. Joseph Del Balzo, former Acting Administrator of the FAA, and Mr. William Marx, a former senior FAA air traffic expert) as well as Dr. Kenneth Fleming, a nationally recognized aviation engineering expert from Embry-Riddle. Affidavits of Dr. Fleming and Mr. Marx are attached hereto. An affidavit of Mr. Del Balzo was submitted as an attachment to the April 6, 2005 Objections. These individuals consulted with a senior representative of the O'Hare controllers to evaluate the FAA's stated objections contained in the Draft Evaluation. As discussed below, the FAA's stated objections are completely without merit.³

³ The FAA has refused to provide the Objectors with the underlying documents relating to the FAA's actions and statements in rejecting these alternatives and has refused to identify what technical person made these analyses or what evidence the FAA used in rejecting these alternatives.

Comment	Response
6	Please see the previous page for the response to this comment.
7	<p>The FAA has responded to the commenter's response to FAA's comments on the "alternatives" L1 and L2. As noted previously in response to comment 6, the FAA has carefully considered the commenter's "alternatives" L1 and L2 and has found that neither of these meet the purpose and need as outlined in Chapter 2 of the EIS. The basis for this conclusion can be found in Section 3.6 of the Final EIS.</p> <p>The response to the commenter's issues with FAA's statements regarding L1 and L2 from the Draft Evaluation is provided in response to comments 22 through 48, below.</p>

The Objectors' previous submissions conclusively demonstrate that:

- **Neither Phase One nor the full OMP will meet the purpose and needs identified in the DEIS, without the use of demand management and other airports in a blended alternative, because:**
 - OMP will not reduce delays and congestion, but soon after opening day will experience delays as high or higher than the historic high delays ever experienced at O'Hare. Indeed, if more current TAF forecasts (e.g., 2003 TAF) are used, delays under OMP will meet or exceed the excessive 15 minute AAAW standard used by FAA in the DEIS in the 2018-2020 time frame.
 - OMP will fall far short of accommodating forecast demand and acceptable levels of delay.
 - Phase One will experience delays on opening day as high or higher than the historic high delays ever experienced at O'Hare and will exceed even the excessive 15 minute AAAW standard used by the FAA in the DEIS shortly after it opens.
- **Because OMP and Phase One will affect adversely the safety, utility and efficiency of O'Hare, the FAA cannot approve the City's proposed Airport Layout Plan.**
- **OMP and Phase One fail every reasonable benefit cost analysis by wide margins. For every dollar of cost, OMP will produce anywhere from ZERO (indeed, negative) to a few pennies of benefits.**
 - Failure to meet the legally mandated benefit-cost requirement — a central statutory requirement for AIP funding—means that Chicago will not be able to obtain the more than \$300 million in discretionary AIP grants for Phase One and over \$800 million in discretionary AIP grants for the full build OMP-Master Plan.
- **The cost of OMP will be prohibitive (will likely exceed \$20 billion) and cannot be financed.**
 - OMP requires more federal grants than it can ever reasonably expect to obtain and the financially struggling airlines cannot and will not be able to fund the enormous short falls.

Comment	Response
8	The FAA disagrees with these assertions based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525. Please see the responses to <i>Section 2.0</i> for basis of FAA's disagreement.
9	The FAA disagrees with these assertions based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525. Please see the responses to <i>Section 2.0</i> for basis of FAA's disagreement. Also, please see <i>Section IID of Karaganis-Cohn's April 6, 2005</i> comments on the DEIS beginning page U.4-431.
10	With respect to discretionary funding, the commenters have provided comments in a separate process concerning the LOI application. Outside of the NEPA process, the FAA is evaluating the City of Chicago's benefit cost analysis through the ongoing review of the City of Chicago's Letter of Intent Application, submitted to the FAA in February 2005. A decision whether to fund the LOI and at what level will be determined through this separate process.

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- Because OMP flunks the statutorily mandated benefit-cost requirements, it will not be eligible for AIP discretionary grants – leading to major shortfalls in PFC and airline bond funding.
- The Airlines have not agreed to pay for the full OMP and it is unlikely that they will.
 - This fact has been proven by recent events involving the mysterious removal by the City of a key taxiway (Taxiway “L/L”) because the Airlines have refused to pay for its \$200 million-plus cost. The air traffic controllers have stated that the “L/L” taxiway is essential. If the carriers are balking at paying for this relatively small but important piece of the project, it defies reason and logic that the airlines would support the huge costs and likely overruns of both Phase One and OMP.
 - The “Majority In Interest (“MII”) Airlines” have already refused to approve the funding and construction of major terminal components of the full build OMP-Master Plan — namely the multi-billion dollar WGP portions of the full build OMP-Master Plan.
- **Without additional sources of money to fill the huge gap in financing caused by the failure to qualify for AIP funds, the financial “house of cards” on which Chicago’s financing for both Phase One and the full build OMP-Master Plan rests will collapse.**
 - Without the AIP funds, Chicago will not be eligible for the more than \$2.6 billion in PFC funds that Chicago needs for the full build OMP-Master Plan nor the more than \$1 billion in PFC authorization Chicago is currently seeking for Phase One.
 - Federal law prohibits AIP and PFC authorizations for projects where the applicant cannot show that the money from other sources is sufficient to complete the project.
- **The City, with the FAA’s concurrence, continues to conceal the true costs and timing of the project from the public while the City continues its worn-out and now repudiated refrain that OMP will cost only \$6.6 billion.**
 - The FAA persists in failing to obtain or refusing to produce a comprehensive cost estimate for the full build OMP-Master Plan.

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Comment	Response
11	<p>The FAA does not agree with the commenter regarding the commenter’s estimates of costs for the OMP. This issue has been responded to in both <i>Karaganis-Cohn’s April 6, 2005</i> comments on the DEIS beginning on page U.4-396, and <i>Campbell-Hill’s April 6, 2005</i> comments on the DEIS beginning page U.4-501.</p> <p>Specifically, <i>Section IV</i> of <i>Karaganis-Cohn’s April 6, 2005</i> comments on the DEIS beginning page U.4-434. Please see the responses to <i>Section IV</i> for basis of FAA’s disagreement.</p> <p>Specifically, <i>Section 3.0</i> of <i>Campbell-Hill’s April 6, 2005</i> comments on the DEIS beginning page U.4-558. Please see the responses to <i>Section 3.0</i> for basis of FAA’s disagreement.</p>
12	<p>As stated in response to comment 2, the FAA notes that the consideration of the BCA and the City’s LOI is being considered by the FAA outside the NEPA process. In addition, the PFC and AIP processes are separate and distinct from the NEPA process.</p> <p>Specifically, <i>Section 2.0</i> of <i>Campbell-Hill’s April 6, 2005</i> comments on the DEIS beginning page U.4-525. Please see the responses to <i>Section 2.0</i> for basis of FAA’s disagreement.</p>
13	<p>The FAA does not agree with the commenter regarding the commenter’s estimates of costs for the OMP. This issue has been responded to in both <i>Karaganis-Cohn’s April 6, 2005</i> comments on the DEIS beginning on page U.4-396, and <i>Campbell-Hill’s April 6, 2005</i> comments on the DEIS beginning page U.4-501.</p> <p>Specifically, <i>Section 3.0</i> of <i>Campbell-Hill’s April 6, 2005</i> comments on the DEIS beginning page U.4-558. Please see the responses to <i>Section 3.0</i> for basis of FAA’s disagreement.</p> <p>Additionally, in response to this request and others, the FAA has reviewed additional cost information related to the City’s proposed O’Hare Modernization Program (OMP). This additional cost information provided by the City has been posted to the FAA’s website, http://www.agl.faa.gov/OMP/.</p> <p>As discussed in Section 1.7 of Chapter 1 of the Final EIS, the FAA has concluded that the City’s cost estimates are reasonable for the purposes of the National Environmental Policy Act (NEPA).</p>

- The FAA's stated cost of \$14.2 billion in the DEIS fails to include either "capitalized interest" or an adequate construction contingency cost — understating the construction cost of the full build OMP-Master Plan by several billion dollars. When these cost factors are included the likely cost of the full build OMP-Master Plan will exceed \$20 billion.
- On June 20, 2005, the Chicago Tribune reported that it had a copy of an internal City report prepared by the City's OMP consultant which indicated that the \$2.9 billion price tag for Phase One had now risen by over a quarter of a billion dollars and that the runway completions would be up to four years behind schedule. (The article stated that the consultant was fired after it issued the report.)
- The same article states that Chicago secretly eliminated a critical component of Phase One (namely the Taxiway L/L ("Lima Lima") which had an estimated cost of between \$200 and \$250 million.
 - If Lima/Lima stays out of Phase One then all of the Chicago-FAA modeling and impact analysis for Phase One becomes invalid.
 - If Lima/Lima is added to the cost of Phase One then the entire funding structure proposed for Phase One becomes suspect. The airlines are reported to have said they will not fund Phase One and Chicago's current AIP and PFC funding requests make no mention of the added 200-250 million dollars cost.
- **Fictional Cost Estimates.** The Tribune article and the City's secret cost report(s) show that the City's FAA submissions are fiction and completely undermine the validity of the entire OMP project.
 - The cost projections on which the City's BCA is based are invalid.
 - The timing of completion of the project and the resultant alleged benefits will be years behind schedule.
 - The project cannot be financed because the airlines will not fund it.

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Comment	Response
13	Please see the previous page for the response to this comment.
14	<p>In response to this request and others, the FAA has reviewed additional cost information related to the City's proposed O'Hare Modernization Program (OMP). This additional cost information provided by the City has been posted to the FAA's website, http://www.agl.faa.gov/OMP/.</p> <p>As discussed in Section 1.7 of Chapter 1 of the Final EIS, the FAA has concluded that the City's cost estimates are reasonable for the purposes of the National Environmental Policy Act (NEPA).</p> <p>As stated in response to comment 2, the FAA notes that the consideration of the BCA and the City's LOI is being considered by the FAA outside the NEPA process. In addition, the PFC and AIP processes are separate and distinct from the NEPA process.</p>

- **The FAA has a responsibility to the public to administer a fair and orderly process, to obtain a copy of the City's consultant's report and to share it with the public so that it will have a record based on facts, not fiction.**
- **OMP is unsafe and unworkable.**
 - **Runway incursions**-OMP will drastically increase runway crossings and the risk of runway incursions. The Objectors previously noted that runway crossing will increase from 100 per day to over 1,700 per day and will require substantial and complex coordination between controllers and pilots to avoid runway incursions. The controllers have previously stated that this creates "a very serious safety issue." NATCA letter to former Senator Peter Fitzgerald dated November 30, 2001. Dallas/Ft. Worth is building perimeter taxiways to avoid these problems. Perimeter taxiways are not possible at O'Hare.
 - **Controller concerns about full OMP**- The President of the NATCA O'Hare Tower, representing 64 air traffic controllers at O'Hare, recently told the FAA in a letter dated June 6, 2005 to the FAA's Chief Operation Officer:
 - "The runway re-alignment plan was unveiled over two years ago, with no input from the FAA or air traffic controllers. The result is that the proposed runway plan has inherent safety issues. The most serious concern is that between twenty-two and twenty-four hundred taxiing aircraft a day will have to cross active runways to get to and from the terminals. In many cases, these aircraft will require *5 frequency changes* while taxiing. As an 18 year controller and NATCA's regional runway safety representative, I am well aware of the national runway incursion issue and the FAA's position. I heard our administrator speak many times about runway incursions at various events around the country. I am very concerned with Chicago's OMP plans, and equally concerned that the FAA Great Lakes Region does not share these same concerns."
 - **Controllers' concerns with Phase One**- The controllers have told the press and our technical representatives that Phase One will— in the controllers' own words be a "catastrophe" and a "disaster." Their concern stems from the fact that the proposed northernmost arrival runway in IFR conditions will block the

Comment	Response
15	Please see response to comment 14 on the previous page.
16	<p>The FAA disagrees with the commenter's assertion that runway crossings and the risk of runway incursions will increase drastically with adoption of the OMP. Unlike the commenter, the FAA has subjected several of its proposed alternatives to detailed modeling by MITRE, an FAA contractor. MITRE's modeling concluded that the FAA's proposed strategy for managing crossings of active runways is at least as safe as today's operations at O'Hare.</p> <p>The commenter is completely wrong in claiming that runway crossings at O'Hare today number only about 100. Given the current runway configuration, especially on the north side of the airport, runway crossings are routine events. For example, when the FAA is operating under "Plan X" which can handle over 1,300 aircraft per day, every aircraft departing from Runway 4L crosses both Runways 9L and 14L on takeoff. That one departure counts for two crossings. Aircraft departing Runway 9L in east flow, or 27R in west flow, cross Runways 4L and 32R. When those other runways are in use for either departure or arrival, traffic must be "sequenced" by the controller so that the aircraft have proper separation on the ground and in the air.</p> <p>One of the benefits of the OMP is that it minimizes "active runway" crossings by allowing those aircraft that need to cross a runway to do so either behind the intersection takeoff point of the other runway, or far down the field at the opposite end of the runway, beyond a point where the arrival aircraft "land and hold short." The OMP virtually eliminates operations on intersecting runways. These practices enhance safety, reduce controller workload, and allow for greater efficiency in runway use.</p>
17	<p>The commenter's reference is wrong to suggest that the OMP was "unveiled" with no input from the FAA or air traffic controllers. The OMP was presented to the FAA by the City in December 2002. The FAA immediately established a review team that included air traffic controllers. After many meetings, four separate sets of comments (posted at http://www.agl.faa.gov/OMP/), 249 pages of text, and several revisions to the proposal, this separate non-EIS process produced the modified OMP that is the subject of this NEPA document. It also produced "Alternative G" which the FAA developed and studied at the request of air traffic controllers.</p> <p>Continued on the following page.</p>

key departure runways. If the departures and arrivals are forced in Phase One to interact as proposed by Chicago and the FAA, the controllers see a major safety concern. In response, they have indicated that—to insure safety—the new northern runway would not be used in IFR conditions so as to allow safe departures, leading one of the controllers to refer to the proposed northern runway as a “parking lot.”

- **Controllers' Alternative to OMP-** The President of the NATCA O'Hare Tower on June 29, 2005 in a televised interview confirmed the prudence and feasibility of our proposed Alternative L-1 (a complete transcript of the interview is set forth in an attachment hereto):

Reporter: “The controllers contend that’s [OMP] a waste of money. They say a single new runway on the airport’s south end would accomplish the same benefits at a fraction of the cost.”

Craig Burzych: “This would help immediately. If this runway would open tomorrow, you would see an immediate reduction or elimination of poor weather arrival delays.”

Craig Burzych: “Parallel numbers four, five and six is overkill. Parallels four, five and six do not add any benefit to the arrival delay situation at O'Hare.”

Craig Burzych: “This [i.e. one new southern runway as proposed in Alternative L-1] is the quickest, cheapest and safest fix to fixing O'Hare airport today.”

- The controller's alternative is a blended alternative which will meet the stated purpose and need as well as or better than Phase One and full build OMP-Master Plan without the need for destruction of religious cemeteries, parklands, homes and businesses.

II. The FAA Continues Improperly and Unlawfully To Reject Other Prudent and Feasible Alternatives.

The Department of Transportation Act, 49 U.S.C. Section 303, commonly referred to as Section 4(f), establishes that national policy requires that “special effort should be made to preserve the natural beauty of the countryside and public

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Comment	Response
17 continued	<p>This comment, projecting 2,200 to 2,400 runway crossings appears to be at odds with the previous comment that predicted 1,700. The FAA believes the more important question is not how many runway crossings are likely, but rather where they will occur. As described in response to the comment 16 immediately above, the agency concludes that the OMP can be operated both safely and efficiently. The MITRE study confirms that conclusion.</p> <p>The commenter asserts that aircraft may require as many as 5 separate frequency changes as they move from landing to terminal or vice versa. The FAA agrees that, in very rare cases, such as a cargo aircraft landing on Runway 9L and taxiing from the northernmost point at the airport to the cargo facility at the southwest corner of the field, such frequency changes may be required. However, in most circumstances, the number of times a pilot will need to change radio frequencies to speak with a different controller will be no greater than the current situation at airports such as Atlanta, Dallas/Fort Worth, or other major airports with similar numbers of parallel runways. This is not a safety concern.</p>
18	<p>The FAA rejects the suggestion that operation of Phase One of the OMP in poor weather conditions will be either a “catastrophe” or a “disaster.” Phase One is equivalent to Alternative B in 2009. This configuration was modeled, based on input from air traffic controllers. While the FAA cannot speak for every individual claiming air traffic expertise, the detailed study the FAA conducted demonstrates that the commenter’s concerns are without merit. In fact, an Air Traffic Workgroup, (see Appendix D, Attachment D-3) examined the assumptions and results of each operating layout, and identified the optimum sets of runways to use in a variety of wind and weather conditions. Thus, for safety reasons, the FAA does not propose to use Runway 9L in east flow conditions during IFR weather. But this is hardly crippling, because that runway is used in west flow conditions during the same weather, and as noted in other responses to comments, IFR conditions at O'Hare occur less than 10% of the time. As a result, delays expected during Phase One of the OMP will be less than those projected by the no-action alternative.</p>
19	<p>The FAA disagrees with the characterization that the O'Hare Tower NATCA representative endorsed your proposed alternative to the OMP, based on a review of the interview transcript. As demonstrated by the depiction of the commenter’s “L-1” Alternative, at Section 3.6 of Chapter 3, Alternatives, L-1 calls for the construction of two new runways located to the south of the present passenger terminal. In contrast, as shown by the ellipsis used in the quotation, the O'Hare Tower NATCA representative was suggesting a “one runway” proposal.</p>

park and recreation lands, wildlife and waterfowl refuges and historic sites.”

Section 4(f) authorizes the Secretary of Transportation to approve a transportation program or project requiring the use of such lands “only if (1) there is no prudent and feasible alternative to using that land; and (2) the program or project includes all possible planning to minimize harm” to such resources. Similarly, both NEPA and Section 106 of the National Historic Preservation Act (NHPA) also require an objective and “hard-look” evaluation of alternatives for the purpose of avoiding and minimizing environmental harm. Such evaluations require that alternatives be selected and weighed against the level of environmental harm presented by project alternatives. Finally, there are also special requirements applicable to properties purchased or developed with funds under the Land and Water Conservation Fund Act, 16 U.S.C. Section 4601-8(f), which is generally referred to as 6(f). That law prohibits acquisition or development of 6(f) property for other than public recreational use without the approval of the Secretary of the Interior. A precondition to such approval by Interior is that “all practical alternatives to the proposed conversion have been evaluated.” 36 C.F.R. Section 59.3.

The FAA's conclusory rejection of the prudent and feasible alternatives presented by the Objectors is unsustainable, unsupported by facts and analysis and inconsistent with FAA precedent, and fails to comply with the FAA's legal obligations to fairly and objectively evaluate alternatives to the destruction of valuable and historic resources.

A. The FAA's Rejection of Alternatives L-1 and L-2 is Improper, Superficial And Contrary to the Facts.

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Comment	Response
19 continued	In addition, in response to comments the FAA has evaluated the “one runway” derivatives in Chapter 3.6 of the FEIS. Based on the FAA's analysis of the “one runway” derivatives (labeled in Chapter 3.6 as Commenter Derivative M and N) they fail to meet purpose and need.
20	FAA has undertaken a careful and detailed evaluation of alternatives, please see Chapter 3 of the EIS and the Final 4(f) and 6(f) Evaluation contained in Appendix L of the FEIS. In addition, the FAA will makes its determination regarding Section 4(f) and Section 6(f) in the Record of Decision.
21	The FAA disagrees with the commenter's assertion. FAA's careful and detailed evaluation of alternatives is contained in Chapter 3 and the Final 4(f) and 6(f) Evaluation contained in Appendix L of the FEIS. In addition, the FAA will makes its determination regarding Section 4(f) and Section 6(f) in the Record of Decision.

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The FAA's wholesale and superficial rejection of the controllers' proposed Alternative L-1, as well as an additional alternative L-2, based on non-analytical cursory conclusions, once again confirms the FAA's bias against any alternative that differs from the City's preferred plan. It is absurd for the FAA to claim that it has not yet decided on a preferred course of action when it has rejected every other possible alternative.

The grounds for the latest series of rejections of the Objectors' and the controllers' alternatives in the Draft Evaluation are baseless and unsupported by facts. As demonstrated herein, the Draft Evaluation's reasons for rejecting the alternatives are either false, apply with equal force to the OMP or are essentially bald unsubstantiated claims without any factual or analytical support. The FAA has not conducted any simulation studies or delay modeling of any of these alternatives.

The Draft's assertions that the alternative runway configurations—which will allow for triple simultaneous independent arrivals—will not reduce delays, are specious and wholly inconsistent with the FAA's own findings that Phase One—which will NOT provide for triple arrivals in critical IFR conditions—will reduce delays.

The controllers have confirmed that Alternative L-1 would produce substantial delay reduction benefits equal to if not better than OMP (and certainly better than Phase One), avoid the controllers' runway incursion safety concerns of

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Comment	Response
22	<p>Before providing specific responses to comments about the FAA's earlier treatment of "Alternatives L-1 and L-2" in the Draft Section 4(f) and Section 6(f) Evaluation, the FAA believes it would be helpful to make two technical observations. First, L-1 and L-2 are not, as the commenter asserts, the "controllers alternative." Instead, as noted in the second paragraph of page 12 of the commenter's July 5th letter, these are the "Objectors" alternatives.</p> <p>Second, the commenter has unnecessarily complicated the process of analysis and response because of its unique and confusing runway naming convention. The FAA, throughout this document, refers to runway identifiers (e.g., 10L/28R) as depicted in the proposed ALP. In some cases, these runway identifiers have been changed from their present names to reflect a standard aviation practice: runways are generally numbered according to their compass orientation, but when there are more than two parallel runways on different sides of the airport, they are given different numbers so as to distinguish one set from the other. Thus, at present O'Hare has one east-west runway north of the terminal (Runway 9L/27R or pointing due east and west at 90 and 270 degrees) and one other east-west runway parallel to it on the south side (Runway 9R/27L). However, following OMP build-out, there would be three parallel runways on the north side (new 9L/27R, new 9C/27C, and 9R/27L, the last of which is presently 9L/27R). On the south side, former Runway 9R/27L becomes 10L/28R, while new parallels further south are identified as Runway 10C/28C, and Runway 10R/28R. By naming the runways north of the field as 9-27's, the airport distinguishes them from the parallel set on the south, the 10-28's. This is important for pilots and controllers. It is also important here because in submitting L-1 to the FAA for consideration, the commenter departed from this convention by failing to rename existing Runway 9R/27L according to the methodology used in the EIS, and by naming OMP Runway 10C/28C as its Runway 10L/28R. Thus, there are now three sets of runway identification terms: current O'Hare layout, proposed OMP, and the commenters L-1 configurations. We have done our best to achieve clarity in our analysis.</p> <p>The FAA's decision on a Preferred Alternative comes only after extensive screening of all reasonable runway configurations and locations, and after each of those proposals was subject to the identical screening criteria for satisfying Purpose and Need. The FAA has carefully studied every option presented to it, as well as additional variants it created of alternatives studied earlier, see Chapter 3 of the Final EIS. This was done to insure that for purposes of NEPA, Sections 4(f) and 6(f), federal aviation obligations and religious liberty issues, every reasonable alternative was fully and fairly examined.</p>
23	Please see the response to this comment on the following page.
24	Please see the response to this comment on the following page.

the OMP configuration, and avoid the destruction of the religious cemeteries and the home, businesses and parklands in the surrounding communities, for a fraction of the cost of OMP.

The President of the NATCA local O'Hare Tower controllers stated in a televised interview on June 29, 2005 that the FAA's criticisms of the proposed single southern runway as set forth in Alternative L-1 "are simply wrong" and that the Alternative L-1 southern runway can accomplish the same benefits as the entire OMP:

"Somewhere along the line, the number one priority went from fixing O'Hare to making it into a huge, long, expensive project."

"[A single new runway in the southern end of O'Hare] would help immediately. If this runway would open tomorrow, you would see an immediate reduction or elimination of poor weather arrival delays."

"[OMP] parallel numbers four, five and six is overkill. Parallels four, five and six do not add any benefit to the arrival delay situations at O'Hare."

"This [one new southern runway] is the quickest, cheapest and safest fix to fixing O'Hare airport today."

See, transcript of interview attached hereto.

With respect to the northern runway component of Phase One, the controllers stated that:

"The Mayor's plan is exactly opposite of what they need and what would work."

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Comment	Response
23	In response to specific comments about the FAA's criticism of L-1 and L-2, the agency rejects the assertion that the faults it found with these proposals are without factual or analytical support. See response to comment immediately above. In addition, greater detail is offered in Section 3.6 of Chapter 3 of the Final EIS.
24	The FAA disagrees with the commenter's assumptions about the operation of the commenter's proposals as contrasted to those of the OMP. For example, in good weather, the OMP (Preferred Alternative) allows for quadruple arrivals, and the commenter's proposals do not. In bad weather (IFR conditions), the OMP allows for three arrival streams in both west flow and east flow. The commenter's proposals would require waivers or special orders to achieve three arrival streams in any bad weather conditions, because they are not 5,000 feet apart, and the FAA does not believe it is realistic to expect such approvals. Moreover, the most southern runway in the commenter's scenario is too short to be operationally productive, as described in greater detail see response to comment 35. In the end, the commenter's proposal was subject to the same scrutiny given consideration of all other runway configurations to determine if they could satisfy the purpose and need of the proposed action.
25	<p>The commenter's consultant may believe that L-1 and L-2 outperform the OMP configuration, but the modeling conducted by the FAA, with the active participation of FAA air traffic specialists, confirm (as exhibited in Appendix D and Appendix E) that the Preferred Alternative is far superior in terms of delay reduction than anything submitted by the commenter.</p> <p>In addition, the FAA notes that the commenter proposes to operate L-1 and L-2 in a non-conventional, and potentially dangerous configuration. With respect to L-1 in both east and west flow, the runways closest to the terminals are not operated as departure runways but as arrival runways and the farther out runways are used for takeoffs. This is completely contrary to the general standard procedures used by the FAA at Atlanta, Dallas/Fort Worth, Los Angeles, and other airports having sets of parallel runways. Using "inboard" runways for departures and the "outboards" for arrivals reduces controller workload, allows the set of parallels to operate more efficiently, and reduces the potential for wake turbulence issues on parallel runways. If forced to operate O'Hare in the configuration proposed by the commenter, the FAA would not use the operating techniques proposed by the commenter because the accommodations required to ensure safety would render such configuration profoundly inefficient.</p>
26	Please see response to comment 19, above.

"It's impossible for us to land airplanes on that North runway and depart other runways at the same time. It's impossible. It's not safe. It's against the rules. And it won't happen."

See, transcript of interview attached hereto.

Alternative L-1, in combination with the very elements of a blended alternative (i.e., demand management and use of other airports) that will be required for Phase One or the full build OMP-Master Plan— meets the purpose and needs stated by the FAA better than Phase One or the full build OMP.

The following addresses each of the FAA's comments relating to Alternatives L-1 and L-2 in the Draft Evaluation:

FAA's "General Comments":

"These alternatives may eliminate the need to acquire properties in Elk Grove Village, Bensenville, and the two cemeteries."

Response: This is an understatement. The alternatives *will* eliminate the need to destroy the religious cemeteries and the homes, businesses and parklands in Bensenville and Elk Grove Village.

"Western terminal development would not be precluded with these designs, but Runway 14R/32L would remain and would create a natural barrier to terminal development on the airfield."

Response: The first part of this comment is correct. The proposed western terminal, the funding for which has not been approved by the airlines, would not be impacted by Alternative L-1. The second part is wrong. There is nothing in this proposal that would preclude any terminal development proposed by the City in the

Comment	Response
27	The FAA believes that this comment implicitly recognizes the weakness of its proposal, because here L-1 is advanced in combination with demand management and other non-construction alternatives. In Chapter 3 , the FAA shows how adoption of the OMP would alleviate the need for continued application of demand management techniques that artificially constrain market demand.
28	The commenter's opinion is noted. However, as described above, neither L-1 nor L-2 will satisfy the purpose and need of the proposed action.

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OMP. This alternative would not have any greater impact on future terminal development than Phase One of OMP or the full OMP. Moreover, the OMP would eliminate this critical crosswind runway capability, which the pilots have confirmed is essential to safe and efficient operations at O'Hare -- particularly during adverse wind or weather conditions. Loss of the existing cross-wind runway capability means the airport will be unable to accept traffic during high crosswind conditions when it safely operates today, or the airport will have to ratchet down traffic flow during contaminated (e.g., wet or icy) runway conditions. The costs of such closures and/or delays can be extremely high and such closures are sure to happen given the prevailing weather conditions at Chicago. A one hour closure of O'Hare can result in costs in excess of 3 million dollars.

"Due to parallel runway spacing, during weather conditions below a 4500' ceiling and 7 statute miles visibility, this configuration would be limited to two arrival runways thus limiting the arrival capacity to approximately 76-80 per hour which is equivalent to IFR rate today."

Response: This comment is incorrect. First, there are over 7,700 feet of separation between the central and northern approach runways. Although the separation between the central and southern runway is 4,300 feet, FAA Advisory Circular AC 150/5300-13, Paragraph 208 (a)(2) authorizes use of simultaneous triple approaches with 4,300 separation on a case by case basis:

"The FAA, on a case by case basis, will consider proposals [for triple simultaneous precision instrument approaches] utilizing separations down to a minimum of 4,300 feet (1,310 m) where a 5,000-foot (1525m) separation is impractical ...)"

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Comment	Response
29	<p>The commenter does not directly challenge the FAA's statement about Runway 14R/32L creating a "natural barrier" to aircraft traveling to and from the western terminal because the commenter agrees that this runway would not preclude such terminal development. The FAA's point was simply that if there is a western terminal and Runway 14R/32L remains, aircraft will need to cross that runway to reach that terminal. Especially in east flow conditions with other traffic taxiing to Runway 10L for departure, there are only so many places aircraft can cross Runway 14R/32L without incurring significant operational penalties.</p> <p>The FAA disagrees with the commenter that Runway 14R/32L should be retained to preserve the airfield's cross-wind operational capacity. The FAA reviewed a thorough study of historic wind and weather data at O'Hare, and found that the Preferred Alternative exceeds the agency's wind coverage criteria. The principal problem with the current runways on the north side of O'Hare is that while they do provide full-time coverage for all wind conditions, these runways do so because they intersect, and it is those intersecting runways that preclude their efficient use. Accordingly, modern airports elect to adopt sets of parallel runways because the operational efficiencies of such a configuration far outweigh the inconvenience of brief delays in those rare circumstances where an unusual wind direction and velocity make those parallel runways unusable.</p>

Furthermore, the Air Traffic Control Handbook, Order 7110.65P indicates that triple instrument approaches are allowed with 4,300 feet of separation with certain equipment.⁴ Order 7110.65P, Section 5-9-7. Given that two of the three runways are 7,700 feet apart, well beyond 5,000 feet, allowing one of the three parallels to be 4,300 for simultaneous independent IFR landings would be fully consistent with AC 150/5300-13 and FAA practice. Our experts as well as the air traffic controllers at O'Hare advised that 4,300-foot separation on the two runways would not create any problems for simultaneous independent IFR operations. The result is a configuration which will allow for triple simultaneous arrivals that will increase IFR arrival capacity to at least 108 flights per hour.

Third, the runways could be moved to increase the separation without destroying the religious cemeteries and the community properties.

"Reducing the length of runway 10R/28L by approximately 1500 feet and shifting it to the east would cause the Runway Protection Zone to infringe on areas in newly impacted communities (i.e., Schiller Park). Although this alternative might reduce impacts on communities to the West, new impacts would occur to the east of the airport. In addition, buildings may be impacted on airport property."

Response: First, the comment is in error and is likely referring to runway 10L, not 10R. Second, the FAA first has an obligation to examine the "new impacts" before it rejects this alternative. The FAA cannot reach the conclusion to reject Alternative L-1 simply because it might create new impacts before fully examining all of the potential impacts and then balancing those impacts against the

⁴ "A high- resolution color monitor with alert algorithms, such as the final monitor aid or that required in the precision runway monitor program."

Comment	Response
30	<p>The FAA stands by its earlier assessment that the commenter's proposed layout would not be operated in a manner that would allow triple, simultaneous landings in poor weather conditions. Although dual operations can occur if runways are separated by 4,300 feet, the FAA standing order requires 5,000 feet for triple operations, unless additional surveillance equipment is utilized. This additional margin is required by the FAA to ensure that the more complex process of landing three aircraft simultaneously will be accomplished safely. Because the FAA believes L-1 would not be operated as the commenter asserts it could, the agency has concluded that L-1 would – in real life – provide no additional benefits beyond the dual stream of arrivals that O'Hare currently uses in poor weather.</p> <p>With regard to relocating the runways to avoid the cemeteries, the FAA refers the commenter to its analysis of runway relocation options found at Chapter 3, Section 3.6.</p>

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destruction that would occur as a result of the OMP. The FAA's comments seem to determine that Schiller Park should be immune from impact in favor of Bensenville and the religious cemeteries.⁵ Indeed, federal law and the U.S. Constitution require the FAA to conduct a full evaluation of the potential impacts including those on Schiller Park that might arise if Alternative L-1 is adopted, because under the federal Religious Freedom Restoration Act, the FAA cannot destroy the religious cemeteries if there is an alternative that would avoid the destruction. Alternative L-1 is that alternative.

"Due to the length of proposed runways and their location, intersection departures would not be viable nor could land and hold short operations (LAHSO) be utilized. Therefore, every runway crossing would be across an active runway."

Response: This comment is completely wrong. Only 6,000 feet are needed for LAHSO operations. And this runway provides for more than enough room for LAHSO. The air traffic controllers have advised us that LAHSO operations would be viable on this runway without any problem. LAHSO operations are now routinely conducted at O'Hare and would be available under these proposed alternatives as well, since the only proposed changes are the addition of two new East-West runways and the lengthening of one East-West runway. As noted above,

⁵ An examination of the location of the Runway Protection Zones (RPZ) for the proposed L-1 or L-2 alternatives shows that the RPZ that would extend into Schiller Park is similar to the RPZ that Chicago and the FAA propose to extend into Bensenville without taking of the underlying property. Under the FAA-Chicago proposal, the RPZ would only require aviation easements and no physical taking of property. That may be the same case for Schiller Park — which is a far cry from destroying religious cemeteries and parklands and hundreds of homes and businesses in Bensenville and Elk Grove.

Comment	Response
31	<p>The FAA disagrees with the commenter's statement that by shifting Runway 10L/28R (which in the OMP is Runway 10C/28C) to the east and reducing its length, there would be no impacts because the Runway Protection Zone extending into Bensenville consists only of aviation easements. Most of the proposed Runway Protection Zone area required for this runway will be obtained in fee. On the west side of the airport, aviation easements were used sparingly, largely to allow several small businesses to continue to operate. Thus, the FAA does not believe its concern over the need for prospective condemnation for Runway Protection Zones in Schiller Park, were this runway to be shifted to the east, displays unequal treatment with that afforded the communities to the west of the airport.</p> <p>The FAA also directs the commenter to the FAA's analysis of the adverse operational consequences of shifting or shortening Runway 10C/28C, which are discussed at Chapter 3, Section 3.6.</p>

the majority of LAHSO operations require only 6000 ft. of runway for landing prior to the intersection of the two runways. Under the L-1 and L-2 alternative proposals, 09R would be a 13,150 ft. runway; therefore, LAHSO operations on 09R (before the intersection of 32L) could easily be conducted since the amount of runway available on 09R for landings would exceed 7,000 ft. Since the first part of the statement is incorrect, the second part is wrong as well.

Responses to FAA's specific comments on Alternative L-1—East Flow

"Runway 10L departures would be difficult to taxi to the departure end due to aircraft queued up for departure. All departures on this runway would have to cross Runway 9R/27L."

Response: Queuing is not an issue. The controllers would use the same procedures that would be used for the OMP. In this case, the aircraft queuing concern is fully solved by taxiing the aircraft to the east side of the field, crossing Runway 9R and using LAHSO in VFR, which is 90% of the time. In IFR, this procedure is no different than runway crossing procedures proposed to be used for the OMP. For example, all arrivals on OMP Runway 10C would have to cross runway 10L, which is the mirror image of what would occur under Alternative L-1. Moreover, all departures on runway 10R, which is proposed as a primary departure runway in the OMP, would have to cross both 10C and 10L. Therefore, Alternative L-1 is no worse than the OMP plan with respect to aircraft queuing.

"Additional congestion may be encountered with runway 10L departures and interaction with aircraft taxiway for departure on Runway 32L from Tango10 intersection".

Comment	Response
32	The commenter states that only 6,000' is necessary for Land and Hold Short Operations (LAHSO). However, 6000' feet is the minimum that any air carrier aircraft needs in order to conduct LAHSO operations, as sated in FAA Order 7110.118. There is a significant percentage of air carrier aircraft currently or forecast to operate at O'Hare that require at least 7,000', 8000', or even 9,000' for LAHSO operations. Furthermore, each air carrier has its own specific operating procedures. For example, American Airlines, which has the second most operations at the Airport, set its LAHSO procedures to accept no less than 8,000'. All existing restrictions regarding LAHSO were factored into developing the operational concept for each alternative. The LAHSO order further states, "No waivers will be issued to the provisions contained in this order." (FAA Order 7110.118, 7.d.) LAHSO is currently conducted at O'Hare, but with numerous constraints as required in the FAA Order, and any modifications to the airfield would be operated under the same constraints.
33	The FAA stands by its response on aircraft queuing. It would never accept as operationally sensible a procedure that would use the commenter's L-1 in an east flow as described. This procedure would send departing aircraft to taxi far to the east of the terminal to a point beyond where the commenter would land aircraft on Runway 10L (its Runway 9R). Then these aircraft would taxi across the active runway at that point, and then taxi all the way back to the departure point of Runway 10C (its 10L). Depending on the departing aircraft gate and the OMP Runway 10L LAHSO point, an aircraft could taxi at least 2 miles before reaching the takeoff threshold of the departure runway. Contrary to the commenter's assertion, these are not the procedures envisioned by the OMP. For the OMP, the FAA would use the "inboard" runway, OMP Runway 10L (commenter's Runway 9R) for departures. Aircraft would reach this point by traveling on either the Alpha or Bravo taxiway to taxiway Mike, and thence directly to the takeoff threshold. OMP landing traffic on OMP Runway 10C would cross OMP runway 10L at the next convenient taxiway and proceed directly to the terminal.

Response: This comment is false. Taxiway T10 is one-third of the way north of the southeast end of runway 32L and well north of runway 9R. Runway 10L is already 1,600 feet south of runway 9R so there is no likelihood of congestion. In addition, any 10L departures would be routed eastbound from the terminal areas to cross 9R at the east end, further eliminating the likelihood of congestion.

"Runway 10L/28R at a proposed length of 6095 feet is too short for most air carrier aircraft and would severely restrict use of the runway. All Heavy and Boeing 757 aircraft classifications would request to use runway 9R requiring additional air traffic control workload and coordination."

Response: First, this is another mistake; we presume the comment is referring to 10R, not 10L since Runway 10R is 6,095 feet. Second, this runway is proposed to be used principally as an arrival runway to allow for triple simultaneous approaches. Third, based on the City's own analysis submitted to the FAA in February 2003⁶, the only aircraft that might be precluded from landing on this runway during some, but not all conditions are the B747-400, the A380 and the B737-800 (the latter only at maximum landing weight under wet runway conditions). All other aircraft, including the B777 could utilize this runway.

"Although the exact requirements for A380 operations have not been determined, there would be no runways 200' wide for use as arrivals in this configuration."

Response: This is a silly basis for rejection. There is no reason why any or all of the proposed runways could not be 200 feet wide.

⁶ OMP Concept Development Refinement, prepared by Ricondo & Associates, Inc., February 2003; Section 2.1.3, Table II-5, pp. II-7 and II-8.

Comment	Response
34	The FAA rejects the commenter's criticism of the agency's evaluation of this aspect of operating L-1. The commenter does not note that it is not permissible to park aircraft in a queue directly under the path of an arrival runway. Because the commenter proposes operating the south inboard runway as an arrival runway (its Runway 9R, OMP Runway 10L), traffic slated for takeoff on the nearby parallel must hold short of crossing under the arrival flight path. Moreover, with proposal L-1, Runway 14R/32L remains operational, and aircraft waiting for an intersection takeoff on Runway 32L at Taxiway Tango-10 occupy long stretches of this taxiway, precluding its use as a viable route to the commenter's Runway 9R. The only means to avoid the congestion predicted by the FAA is to operate L-1 in the fashion described by the commenter which, as noted in the comment immediately above, calls for lengthy and unprecedented taxiing around active runways.
35	The FAA rejects the comment that the agency improperly criticized as borderline unusable Runway 10R/28L because the commenter proposes to shorten it by 1,505 feet from the Preferred Alternative. While many air carriers carry manuals and have standards that allow their pilots to land on a runway that is only 6,095 feet long, the FAA knows from years of experience that, given the option of a longer runway, most pilots would prefer not to land on one so short. Thus, it is not surprising that the FAA's team of Air Traffic Specialists agreed that in its shortened condition of 6,095 feet most aircraft would avoid its use in favor of other runways that are 8,190 feet and 13,150 feet in length. Similarly, by reducing this runway's length to 6,095 feet, many aircraft presently serving O'Hare would reject its use for takeoffs, thereby placing greater dependence on other runways and decreasing the overall efficiency of the airport.
36	The FAA believes that it would impractical to widen all of the commenter's proposed runways to accommodate the A380. Widening the runways would result in numerous issues regarding other airfield facilities/operations.

"Due to the proposed length of Runway 10R/28L and the operational restrictions that would be imposed, Runway 9L would be used more than it is today. Operationally, this would not be desirable as coordination would have to occur between Runway 32L departures and Runway 9L arrivals, with a concurrent reduced arrival rate on Runway 9L."

Response: This is yet another make-weight comment. Runway 10R will be used primarily as an arrival runway. As an arrival runway, this runway is long enough to accommodate virtually all aircraft in the industry fleet except for the few referenced in the previous response. The extra arrival runway would not increase traffic on runway 9L; it would decrease the load on 9L. The use of 10R would not involve any greater "coordination" than already takes place today or that will take place under OMP.

"This configuration would be comparable to plan X (use of a specific set of runways as described in the DEIS) that is used today. It would provide marginal increases in the hourly operational throughput over plan X. However, this alternative would neither reduce existing delays nor accommodate anticipated growth in aviation activity at the Airport at acceptable levels of delay."

Response: This comment is completely wrong. Alternative L-1 is not comparable to plan X. Plan X (and Plan W) involved two parallel runways, whereas Alternative L-1 involves three parallel runways that will enable triple simultaneous IFR approaches. The statement that L-1 would provide only "marginal" increases in hourly operational throughput over Plan X is specious. The FAA's August 2004 simulation showed that Phase One (which has only two parallel arrival runways available in certain critical IFR conditions) states that Phase One would reduce delays from 16.6 minutes to 10.8 minutes. It defies logic and reason that L-1 (which

Comment	Response
37	The commenter has ignored the FAA's operational critique of this aspect of proposal L-1. Having already shown why Runway 10R will not be used as the commenter projects because of its reduced length, the FAA then described the consequence: more aircraft landing on OMP Runway 10L, with the overflow going to new OMP Runway 9L. As shown in Exhibit 3-11 in Chapter 3, Section 3.6 , arrivals in east flow to Runway 9L must cross under the path of departures from Runway 32L. (Note that the Preferred Alternative calls for Runway 14R/32L to be removed). This further "dependency" reduces the effectiveness of each runway, and with a greater flow of traffic to Runway 9L because Runway 10R is unacceptably short, this causes a loss of efficiency.

37

has three parallel arrival runways in all IFR conditions) would not substantially decrease delays even further.

Alternative L-1 West Flow

"Runway 28R departures would be difficult to taxi to the departure end. All departures on this runway would have to cross runway 9R/27L."

Response: This is incorrect. There is no difficulty for taxiing aircraft departing runway 28R. Aircraft would be routed to the west and cross runway 9R on the west side. The comment is disingenuous because this is exactly the procedure contemplated for the OMP, but in reverse. For example, under OMP, arrivals on the center runway, 28C, would have to cross the departure runway, 28R.

"Although the exact requirements for the A380 have not been determined, there would be no runways 200 ft. wide that could be used by this aircraft for arrivals in this configuration."

Response: See previous response. Any one or all of the runways could be built 200 ft. wide.

"This configuration would be comparable to plan W (use of the specific set of runways as described in the DEIS) that is used today. It would provide benefits and hourly operational throughput over plan W. Although this specific configuration of this alternative would provide modest delay benefits, it would not accommodate anticipated growth in aviation activity at the Airport at acceptable levels of delay."

Response: This is incorrect for the same reasons discussed above re plan X. The L-1 configuration is not comparable to plan W. Plan W involved dual runways, whereas Alternative L-1 involves triple runways with simultaneous IFR approaches. The proposed L-1 configurations with triple runways will reduce

Comment	Response
38	<p>In comparing proposed Alternative L-1 East Flow with existing Plan X, the FAA reaffirms that this proposed alternative would perform significantly like Plan X. During good weather conditions, existing Plan X has three arrival runways available for use, not just the two parallel runways as the commenter suggests. In addition, the departure capability of the proposed alternative in East Flow is severely restricted by Runway 9L arrivals. All departures on Runway 4L and Runway 32L must be coordinated with Runway 9L arrivals.</p> <p>Furthermore, this issue is in terms of operational capacity and throughput. In order to maintain a balanced airfield (equal number of arrivals and departures), if arrivals were conducted to three runways as proposed by the commenter, there would not be enough departure capacity to avert gridlock.</p> <p>Finally, with only 4300' between Runway 9R and 10R the FAA would not be able to conduct triple independent arrival approaches. As state above, only current technology and procedures have been assumed throughout the EIS process.</p>
39	<p>The FAA stands by its earlier assessment of the operational inadequacies of proposal L-1 in west flow conditions. As in comment 33 above, the commenter is proposing a method of operating O'Hare that is facially implausible. Here, in west flow conditions, the commenter proposes to taxi all departing aircraft using OMP Runway 28C (commenter runway 28R) almost the full length of the airport to the west, beyond the intersection with the present Runway 14R/32L, and then cross the arrival runway only to taxi the full length of that runway to reach the eastern most point when it would be able to depart. In responding to earlier comments, the FAA concluded this required a taxi distance of two miles west and 1.5 miles back to the east. The agency stands by that evaluation.</p>
40	Please see response to comment 36, above.

delays, and accommodate anticipated growth to a greater extent and at less cost and less destruction than OMP.

Alternative L-2 East Flow

"Due to the runway coordination, air traffic would not depart on runway 32L while arriving on runway 9L."

Response: This is simply untrue. This is done today at O'Hare all of the time with little to no loss of capacity or increase in delays. Moreover, this would not occur very often because there would be two full departure runways—4L and 9R—and 32L would be used essentially as an overflow departure runway.

"With proposed departures on runway 32L, departures from runway 9R would have to be an intersection departure. Extending runway 9R would serve no purpose."

Response: The fact that there would have to be "an intersection departure" is no reason to reject this proposal. It happens all of the time today and will happen under OMP. There would be no interference with runway 32L. It is false to state that extending 9R would serve no useful purpose. This gives the airport and that runway greater flexibility, facilitates LAHSO, and allows for use of heavier aircraft on that runway.

"Departures on Runway 9R, arrivals on Runway 9L and departures on Runway 4L would be a difficult operation to conduct because of the runway interactions. Arrivals to runway 9L would have to be space between 8 and 10 nautical miles apart significantly reducing the operational efficiency of this configuration."

Response: This is incorrect. Intersection departures for 4L would alleviate any conflicts with 9R departures. LAHSO could be used on 9L, since there is about 7,000 feet of runway before it intersects with 4L. Runway 9L would be an overflow

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Comment	Response
41	<p>In comparing proposed Alternative L-1 West Flow with existing Plan W, the FAA reaffirms that this proposed alternative would perform significantly like Plan W. During good weather conditions, existing Plan W has three arrival runways available for use, not just the two parallel runways as the commenter suggests.</p> <p>Furthermore, this issue is in terms of operational capacity and throughput. In order to maintain a balanced airfield (equal number of arrivals and departures), if arrivals were conducted to three runways as proposed by the commenter, there would not be enough departure capacity to avert gridlock.</p> <p>Finally, with only 4300' between Runway 27L and 28L the FAA would not be able to conduct triple independent arrival approaches. As state above, only current technology and procedures have been assumed throughout the EIS process.</p>
42	<p>The FAA rejects the commenter's assertion that present O'Hare operating practices would permit its L-2 proposal to operate as it predicts in a east flow condition. Today, departures from current Runway 32L require coordination with current Runway 9L arrivals. Indeed, separation distances between operations on these two runways was recently lengthened to address wake turbulence concerns, thereby enhancing safety and reducing productivity of this operating configuration. If the commenter is addressing the sequencing of arrivals on its Runway 9L, some 2,300 feet north of the existing Runway 9L, the crossing point between these two runways is moved further down the departure path of Runway 32L in commenter's L2, requiring even greater coordination and sequencing than is true in today's operating conditions. Contrary to the commenter's observation in this document, greater use of Runway 4L is impractical because it crosses both departure Runway 9R and arrival Runway 9L. As a result, one controller would be required to juggle traffic demands on four busy runways. It is simply not true for the commenter to declare: "This is done today at O'Hare all of the time...."</p>
43	<p>The FAA stands by its assertion that if Runway 14R/32L were retained as called for in the commenter's L-2 proposal, it makes no sense to lengthen Runway 9R so that it would cross Runway 14R/32R. Much of this OMP is about reducing runway interactions and runway dependencies so that safety and efficiency are enhanced. The only point made by the agency in this analysis of proposal L-2 was that from an operational perspective, the commenter's proposal simply makes no sense and would not be adopted.</p>

arrival runway with the main bulk of the arrivals on 10L and 10R. There is no basis for the 8-10 mile spacing comment.

"Due to the proposed length of Runway 10R/28L and the operational restrictions that would be imposed, Runway 9L would be used more than it is today increasing the spacing requirements and reducing the departure rate of runway 32L. Arrivals on Runway 9L and their interaction with Runway 32L departures would not result in an efficient operation."

Response: As discussed above, 10R will be 6,095 feet long. This is more than sufficient to accommodate most of the aircraft in the airline fleet except the very few referred to above. There will be no coordination impact on 9L or 32L. The additional runways will expand the airport's capacity and increase its operational efficiency.

"This configuration would be comparable to plan X which is utilized today. However, due to the runway interaction between arrivals and departures, this configuration would perform worse than the existing airfield and would not be used."

Response: This is identical to an earlier comment. See previous response with respect to the L-1 East Flow comment.

L-2 West Flow

"Due to proposed use of runways, significant air traffic coordination would have to occur, reducing the efficiency. All Runway 32R departures would have to be coordinated with Runway 27L departures and Runway 27R arrivals. Furthermore, all runway 32L departures would have to be coordinated with runway 27L departures."

Response: The principal arrival runways would be 28R and 28L; 27R would be the overflow arrival runway. Aircraft could depart runway 32R from an intersecting point north of 27R. While there will be traffic coordination, this

Comment	Response
44	The FAA believes the commenter fails to appreciate the operational limitations of the Land and Hold Short (LAHSO) procedure. It will not work on Runway 9L because that runway is too short to permit its use at that point where it intersects with Runway 4L/22R. Again, the problem with this configuration is, in part, the workload placed on an individual controller, as described in response to comment 42. Because the operation of these runways would be dependent on each other, the operations would need to be handled by one person. Both workload and congestion on this one frequency would render this configuration far less effective than the commenter believes.
45	Please see response to comment 35.
46	Please see response to comment 38.

configuration is far better than Phase One as to which the proposed northern runway would interfere completely with the two 32L and 32R departure runways. The far north runway in Phase One would create significantly worse interaction than alternative L-2. Moreover, under OMP, the coordination will be a nightmare because pilots will be required to make up to five frequency changes during the taxi from landing to the terminal and vice versa.

"This configuration would be comparable to plan W which is utilized today. However, due to the runway interaction between arrivals and departures, this configuration would perform worse than the existing airfield and would not be used."

Response: This is an identical comment to one previously discussed. This plan is NOT comparable to plan W, which offers only dual arrivals compared to triple arrivals under L-2.

B. The FAA Continues Improperly and Unlawfully to Reject Other Prudent and Feasible Blended Alternatives.

1. The FAA's Rejection of Use of Other Airports and Congestion Management Is Wrong On the Basis of Law and Airline Economics.

A. FAA Has "Authority," The Exercise of Which Would Effect/Foster The Use of Other Airports.

The FAA repeats its unfounded claim that reliance on other airports should be rejected as a part of a combination of blended alternative because it is "beyond the legal capability of the FAA" and voluntary shifting of traffic by airlines at O'Hare to other airports cannot be predicted or relied on. The FAA is wrong on both counts.

Comment	Response
47	The FAA stands by its earlier assessment of this flaw in commenter's proposed L-2 configuration. In this, as well as other aspects of these submissions, including L-1, the commenter fails to appreciate that its retention of the "runway triangle" on the north side of the airport (current runways 9L/27R, 4L/22R and 14L/32R) can never allow the airport to achieve the efficiencies of the OMP. This is because all three of those runways are "dependent" upon each other, intersecting in ways that limit operations, and increase controller workload. By retaining O'Hare's original runway geometry for the north side of the airport, the commenter makes largely irrelevant its proposed variants to the south side: in essence, any such proposed can only fine-tune the efficiency of today's airfield.
48	See response to comment immediately above.
49	The FAA disagrees with this summary comment.

The FAA is disingenuous in describing the scope of its authority. First, the FAA has authority to approve or conversely to disapprove grants of AIP and PFC funds. The FAA not only has the authority to disapprove funding for OMP and Phase One, we submit the FAA is legally obligated to do so for the reasons set forth in the Objectors' prior submissions. Second, FAA has plenary authority to ensure the efficient use of the nation's airspace.

If the FAA denies AIP funding (as it must under the statute because OMP cannot be paid for and OMP fails required benefit-cost tests) market forces will eventually force airlines and consumers to respond to conditions at the airport and that will have an effect on airline scheduling behavior. The economic forces of the marketplace will encourage airlines to take a number of steps including using larger aircraft to increase capacity, reducing the number of flights by smaller aircraft, and shifting traffic (particularly connecting traffic) to other airports.⁷

This economic reality, to which the FAA has turned a blind eye, was confirmed by the joint letter of United and American to the FAA cited in the Objectors' April 6, 2005 comments to the DEIS, which states: "Capacity at a hub airport is defined in terms of available aircraft seats, not flights. The myth the Chicago airports are nearing capacity has been proffered by uninformed individuals who lack basic understanding of the aviation industry's economics and operational

⁷ This is exactly the logic used by the FAA in its recent 2005 Record of Decision at LAX to conclude that the physical limitations imposed by the FAA's ROD would force the airlines using LAX to divert some of the unsatisfied demand from LAX to other regional airports.

Comment	Response
50	With respect to discretionary funding, the commenters have presented their views concerning the LOI application which is outside the NEPA process. In addition, consideration of a PFC application is a separate process with its own consultation and comment process pursuant to 14 CFR Part 158.

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methods." The airline statements were recently reaffirmed by the U.S. Department of Justice in a filing with the FAA concerning flights at O'Hare:

"Some of the congestion at O'Hare stems from the airlines' move to regional jets, which may inefficiently use O'Hare's limited capacity. An examination of data from a representative day in December 2004 shows that regional jets accounted for 44% of operations, but only 24% of seating capacity. This disparity between operations and seating capacity arises because regional jet operations average only 56 seats, compared to 140 seats on the average domestic jet flight. While there are certainly some advantages to using regional jets, use of these planes at already congested airports such as O'Hare involves a potentially high opportunity cost--their use precludes service by larger planes carrying larger numbers of passengers." Comments of the United States Department of Justice, Docket FAA-2005-20704, May 24, 2005.

Moreover, both of the O'Hare hub carriers also stated that they could shift connecting traffic to other hubs: "The airlines have the ability to route connecting passengers through other hubs thus accommodating local passengers of increase in local demand."

Contrary to the FAA's erroneous and cursory conclusion, it is not difficult to predict how airlines react to finite airport capacity, but rather a real-world recognition of the "the industry's economic and operational methods." Airlines and consumers behave rationally. While they may be prepared to withstand certain levels of delays for a certain period of time, they will make adjustments to reduce delays in their economic self interest. In fact, the FAA itself in the DEIS recognized that market forces would self-adjust when it observed that "flights to smaller markets...are likely to be eliminated by market forces." DEIS, Page 2-29. It is arbitrary and capricious for the FAA to rely on its predictions of market forces

Comment	Response
51	<p>The commenter offers as evidence a letter written by airline representatives in 1996. The FAA's analysis of ORD demand-capacity conditions is based on data through 2004, and therefore represents more current and relevant conditions than existed in 1996.</p> <p>The FAA notes that in the public hearing conducted by the FAA for the EIS, both American and United Airlines appeared in support of this project, see page U.6-52 (American) and U.6-98 (United).</p> <p>With regard to the USDOJ filing identified by the commenter, the FAA believes that it is more appropriate for the Department of Transportation to address this and related issues in the pending rulemaking, rather than for the FAA to prejudge this matter through an airport EIS.</p>
52	<p>Again, the commenter is quoting a 1996 letter from United and American, that has been superseded by nearly ten years time. Again, the FAA notes that both American and United appeared in support of the project at the public hearing conducted by the FAA for the EIS.</p>

impacts to support the OMP while rejecting predictions of likely market forces responses to other prudent and feasible alternatives.

The Campbell-Hill Report attached hereto and the Campbell-Hill Report filed on April 6, 2005 explain in detail why in the face of delays and congestion airlines and passengers at O'Hare will rely on other regional and hub airports. See attached Campbell-Hill Report, Section 2.0 and Campbell Hill Report filed April 6, 2005, pages 66-75. As Campbell-Hill noted, the FAA's models myopically focus on a static single-airport evaluation and fail to address passenger choice and airline scheduling behavior that occurs in the real world in the face of delay and congestion constraints at O'Hare, constraints that will be exacerbated with OMP. Passengers make choices and airlines respond to those choices based price and total trip time, which includes time to airport, time waiting for flights, scheduled block times and delays/congestion.

Moreover, as the record demonstrates, the OMP would result in a taxpayer and consumer nightmare and will result in no improvements over the current airport configuration. In fact, to the contrary, the scope of the delays at O'Hare will be much worse than before. After billions of dollars have been spent on OMP, including hundreds of million dollars of federal AIP grants and user-PFCs, the end result will be a highly congested delay-filled airport with delays worse than ever. As a result, market forces will foster passenger choices to other airports and airline adjustments that will include use of larger aircraft and reducing flights and/or shifting traffic/flights to other airports.

Comment	Response
53	The purpose and need of the EIS includes the delay reduction. Both American Airlines and United Airlines have indicated their support for the OMP at the public hearing.
54	The FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525.
55	The FAA disagrees with these assertions that appear to be based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Sections 2.0 and 3.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525 and U.4-558, respectively. Please see the responses to <i>Section 2.0</i> for basis of FAA's disagreement.

Second, the FAA has plenary authority to ensure the efficient use of the nation's airspace and can (and indeed has) exercised this authority to impose congestion management mechanisms to relieve delays and congestion. 49 U.S.C. Section 40103; *Northwest Airlines, Inc. v Goldschmidt*, 645 F.2d. 1309 (8th Cir. 1981). When Congress repealed the High Density Rule it expressly provided that "nothing in this section...shall be construed ...as affecting safety and the movement of air traffic." 49 U.S.C. Section 41715(b). In the exercise of this plenary authority, the FAA established lottery allocations at New York LaGuardia Airport (Docket FAA-2000-8278, 65 Fed. Reg. 75765 (December 4, 2000)) and issued orders requiring flight limitations at O'Hare. Order of August 18, 2004, Docket FAA-2004-16944. In addition, FAA and DOT are considering market-based measures to achieve delay reductions. See, *Notice of Market-Based Actions To Relieve Airport Congestion and Delay*, Docket OST-2001-9849; *Congestion and Delay Reduction at Chicago O'Hare International Airport*, Docket FAA-2005-20704.

When it implemented the flight limitations and lottery at LaGuardia, the FAA observed that "it is not possible to add an unlimited number of new operations at LaGuardia, especially during peak hours..." and described its broad authority to limit operations as follows:

"The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of the navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the

Comment	Response
56	<p>Notwithstanding the commenter's assertions regarding FAA's authority, the FAA notes that in the EIS for the Runway 17-35 Extension Project at Philadelphia the Agency stated, "As a matter of policy, [the Office of the Secretary of Transportation] and FAA disfavor administrative approaches to demand management as an artificial constraint on the demand for air transportation. For example, such approaches bar air carriers from offering air travelers as much service as they would like. Administrative approaches should only be employed where absolutely necessary and as an interim, stop-gap measure, until an acceptable solution to delay can be implemented. Accordingly, it remains the FAA's position that administrative rules that cap operations may be suitable interim actions where improvements are physically impractical, or not yet implemented."</p> <p>Again, the FAA has separately responded to these comments in its response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501.</p>

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navigable airspace. Also, under section 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace." 65 Fed. Reg. 75765 (December 4, 2000).

These same considerations apply with equal force at O'Hare whether or not OMP is built. The record shows (See Campbell Hill Report filed April 6, 2005) that after completion of OMP or Phase One, O'Hare will experience delays exceeding historic high levels and will be out of capacity.

The FAA reaffirmed its plenary authority in the recent NPRM issued on March 25, 2005 relating to O'Hare:

"The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. This section authorizes the FAA to develop plans and policy for the use of the navigable airspace and to assign the use the FAA deems necessary to its safe and efficient utilization. It further directs the FAA to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace. The FAA interprets its broad statutory authority to ensure the efficient use of the navigable airspace to encompass management of the nationwide system of air commerce and air traffic control." 57 Fed. Reg. 15520, 15523 (March 25, 2005).

Imposition of congestion management through the exercise of FAA's plenary powers will, in combination with market forces, affect airline scheduling behavior and reduce delays and congestion. Congestion management will discourage the kinds of inefficient use of O'Hare's limited resources to which the Department of Justice referred, and encourage airlines to use larger aircraft and shift traffic, including connecting traffic to other regional and hub airports.

B. A Shift in Traffic to Other Airports in Response to Market Forces and/or Congestion Management Mechanisms Will

Comment	Response
57	Please see response to comment 56 on the previous page.
58	The FAA has prepared this EIS with knowledge of the pending NPRM and believes that it is more appropriate for the Department of Transportation to address this and related issues in the pending rulemaking, rather than for the FAA to prejudge this matter through an airport EIS.

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Not Impact O'Hare's Role as a Hub or International Gateway.

The FAA's statement that O'Hare's "role as a major connecting hub and international gateway is dependent on the airline service of local origin-destination demand" is false. As the Campbell Hill Reports demonstrate, if the hub carriers shifted connecting traffic to other hubs—which market forces would impel them to do in the face of significant delays under OMP or Phase One—there would be more than ample capacity to fully serve the City's local O&D base. Moreover, the strength of the local O&D at O'Hare will also continue to ensure a full complement of international services. See, Campbell-Hill Report attached hereto, Section 2.2.2 and Campbell Hill Report filed April 6, 2005, Section 4.2 and 4.3.

In addition, the FAA's position in this case is inconsistent with and belied by the recent FAA decision to approve a regional airport plan in Los Angeles, which relied on use of other airports in the Los Angeles region to accommodate traffic. Los Angeles International Airport is an even bigger international gateway than O&D in the Los Angeles region and the plan approved by the FAA involved a blended alternative including a cap on traffic at LAX coupled with reliance on shifting of traffic that would otherwise use LAX to other regional airports on the Los Angeles area. In short, the FAA's recent approval of a blended alternative at Los Angeles, which included adoption of a no-build alternative and reliance on other regional airports to handle regional traffic in the Los Angeles area runs directly contrary to FAA's rejection of a blended alternative in the OMP DEIS.

Comment	Response
59	Please see the FAA's response to the comments within the Campbell-hill report attached and referenced, beginning on page L-155 of this document.
60	With regard to the LAX ROD, the FAA refers the commenter to comment 138 of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-595.

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C. Blended Alternatives Including the Proposed Alternative On-Airport Runway Configurations Coupled With Congestion Management Are the Only Prudent and Feasible Alternatives.

The facts are clear that OMP will not reduce delays and congestion or materially increase O'Hare's capacity. In fact, O'Hare will reach unacceptable levels of delay virtually on opening day. As a result, congestion management will of necessity be required at O'Hare soon after the completion of the project. The Campbell-Hill delay curve analysis shows that under the 2003 TAF, all weather delays will exceed the DEIS's excessively liberal 15 minute delay standard — with huge associated average IFR delays— shortly after it opens.⁸ Phase One delays will be worse.

D. The FAA Continues to Fail to Address its Responsibilities and the Religious Objectors' Rights under the First Amendment Free Exercise Clause and the Federal Religious Freedom Restoration Act.

As it did in the DEIS, the FAA in the Draft Evaluation continues to ignore the FAA's responsibilities and the Religious Objectors' rights under the First Amendment Free Exercise Clause and the federal Religious Freedom Restoration Act. The FAA is proposing to assist Chicago in denying the First Amendment rights of the Religious Objectors by, *inter alia*, funding through AIP and PFC decisions a project (Phase One) and approving the Airport Layout Plan, which

⁸ The FAA itself admits in Appendix R, R-11 that using the 2003 TAF, OMP would reach FAA's 15 minute AAAW capacity limit in 2018, within 5 years of opening. If the 2004 TAF is used (which has a mysterious unexplained huge drop in forecast enplanements from the 2003 TAF), OMP would reach this limit shortly thereafter.

Comment	Response
61	The FAA disagrees with this comment which appears to be based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525.
62	In response to this comment and others, the FAA has added Section 5.22 to Chapter 5 of the EIS for the FAA's discussion of legal issues involving potential relocation of St. Johannes and Rest Haven Cemeteries.

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federal actions will have the direct impact of destroying the religious cemeteries. Further, as to each of the actions being proposed by the FAA, the FAA continues to ignore its responsibilities under federal RFRA. The Religious Objectors have explained their positions on these issues in numerous submissions and letters to the FAA and incorporate those by reference. The decision as to the legal and factual issues regarding the FAA's compliance with the First Amendment and the requirements of federal RFRA will be made by a federal Article III court.

III. The Draft Evaluation Fails to Properly Evaluate the Environmental Impacts on Section 4(f)/6(f) Properties and Fails to Properly Evaluate Appropriate Mitigation for 6(f) Properties.

The purported evaluation of direct and indirect impacts on 4(f) and 6(f) properties is entirely inadequate for the reasons set forth below.

A. Identification of Directly and Indirectly Impacted 4(f)/6(f) Properties Requires Further Examination Of Less Destructive Alternatives and Further Planning to Minimize Harm.

According to the Draft Evaluation, the following seven 4(f)/6(f) properties will be directly impacted by the OMP build-alternatives: 1) Schuster Park (also a 6(f) property); 2) St. Johannes Cemetery; 3) Rest Haven Cemetery; 4) Bretman Park; 5) Gas Service station; 6) Schwerdtfeger Farmstead; and 7) DuPage County Forest Preserve (Silver Creek)⁹. Each of these properties will be physically demolished and

⁹ The Draft Evaluation fails to address the proposed complete isolation of Elk Grove Village's LGK Park. Whether Elk Grove uses that property as a park or as a fishing recreational use (its past use), Chicago's OMP proposal calls for either the acquisition of the LGK Park or the isolation of that park. No provision for access is made in the Draft Evaluation.

Comment	Response
62	Please see the response to this comment on the previous page.
63	<p>FAA disagrees with the commenter's assertion that FAA "has violated the procedural requirement by simply failing to evaluate the prudence and feasibility of alternatives" potentially resulting in avoidance and/or less harm to the Section 4(f) and 6(f) facilities. Both Chapter 3 of the EIS and the Final Section 4(f) and 6(f) Evaluation itself contain a substantial discussion of alternatives, their impacts, and if they might avoid or result in lesser impacts on the resources at issue. FAA has in fact conducted a thorough evaluation of alternatives. Further, "alternatives" suggested by the commenter, beyond those analyzed in the Draft EIS, were also taken into consideration as a part of the Draft Section 4(f) and 6(f) Evaluation. Finally, the FAA has also developed and considered derivatives/variants of the alternatives which would potentially avoid certain of these resources at issue. The FAA has evaluated the commenter's proposals in a new Section 3.6 in Chapter 3.</p> <p>In regards to the commenter's statement that there are 45 local sites under Alternative C, and 23 local sites under Alternatives D and G that would be indirectly impacted by noise levels incompatible with their intended uses, these sites are all locally important historic residences. In determining whether or not there is a constructive use, FAA evaluates whether the impacts would substantially impair the Section 4(f) resource. Substantial impairment occurs only when the activities, features, or attributes of the resource that contribute to its significance or enjoyment are substantially diminished. The historic quality of these residences would not be substantially impaired by incompatible noise levels. The incompatible residential land use, within a 65 DNL or greater noise contour, would require sound insulation. No adverse effects would occur to these resources due to provision of sound insulation, because sound insulation would be completed in accordance with the Secretary of Interior's <i>Standards for the Treatment of Historic Buildings</i>. Therefore there is not a constructive use of these sites under Section 4(f).</p>

converted to airport uses by the OMP. FAA Order 1050.1E, Appendix A, Section 6.2e establishes the threshold for direct impacts to 4(f) properties and explains that “[w]hen there is an actual physical taking of lands being used for a park or other purposes in conjunction with a project, there is generally no latitude for judgment regarding 4(f) applicability.”

The Draft Evaluation also identified 45 local sites that would be indirectly impacted by noise levels incompatible with their intended uses under Alternative C, and 23 local sites that would experience incompatible noise levels under Alternatives D and G. Draft Evaluation at 3-2.

Section 4(f) requires the FAA to undertake the following sequential actions with respect to all 4(f)/6(f) properties:

- 1) establish that there are no prudent and feasible alternatives to using the 4(f)/6(f) properties; and
- 2) if and only if there are no prudent and feasible alternatives to using the 4(f)/6(f) properties, then include all possible planning to minimize harm to 4(f)/6(f) property resulting from any use that cannot be avoided by prudent and feasible alternatives.¹⁰

The FAA's Draft Evaluation includes no evaluation of alternatives that would avoid the direct and indirect use of each of the 4(f)/6(f) properties (hereinafter “non-destructive alternatives”). The bulk of chapter 3, “Impacts to Section 4(f) Resources and Potential Mitigation Measures” improperly bypasses the threshold issue of

¹⁰ 49 U.S.C. § 303(c)(1-2).

alternatives and moves directly into a discussion of mitigation and planning to minimize harm, which is step #2 in the 4(f) process. Chapter 3 of the Draft Evaluation recognizes this threshold procedural requirement with section 3.2 entitled "Alternatives That Would Avoid Impacts." But this section contains no evaluation or analysis whatsoever. This chapter simply explains that all non-destructive alternatives were previously eliminated during the development of the NEPA DEIS, which began in July, 2002, and which was completed 6 months ago in January, 2005. In other words, to the extent non-destructive alternatives were ever truly considered by the FAA, they were all eliminated from consideration long before the FAA began considering adverse impacts on 4(f) properties. This clearly turns the process on its head in violation of legal requirements.

The prior evaluation of non-destructive alternatives referenced in section 3.2 was clearly done without regard to the impact of various alternatives on 4(f) resources, since the 4(f) resources had not even been finally identified until the publication of the Draft Evaluation nearly six months after the publication of the DEIS. In fact, the FAA was still in the process of working with affected communities to identify what the 4(f) properties were as late as April 2005.¹¹ The discussion in section 3.2 of the Draft Evaluation simply confirms that the FAA has done no evaluation of alternatives in the context of the 4(f) evaluation itself (other than the cursory dismissal of the Community Objectors' alternatives discussed above).

Section 4(f) establishes both a procedural and substantive obligation on the FAA to consider alternatives.¹² The Draft Evaluation confirms that the FAA has violated the procedural requirement by simply failing to evaluate the prudence and feasibility of alternatives that would avoid harm to 4(f) resources. Moreover, even if, for the sake of argument, one assumed that some alternatives evaluation step had been conducted for 4(f) properties, this cursory evaluation, prior to even identifying 4(f) resources, cannot possibly meet the FAA's substantive obligation to conduct an adequate review of alternatives that meets the arbitrary and capricious standard of 5 U.S.C. § 706. An adequate evaluation is one that is "based on a consideration of the relevant factors."¹³ An evaluation of alternatives based on all relevant factors, at a minimum, requires that alternatives be selected in light of, and weighed against, the level of environmental harm presented by project alternatives to the resources that Congress has specifically identified as especially sensitive and needing special protection. Thus, selection and evaluation of alternatives prior to identification of the 4(f) resources defined by the Department of Transportation Act (and historic resources defined by the National Historic Preservation Act) is an evaluation conducted in willful disregard of the most critical

¹¹ See FAA letters requesting assistance from Community Objectors in identifying 4(f)/6(f) properties dated April 22, 2005, March 28, 2005, and March 7, 2005.

¹² See *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971); *Committee to Preserve Boomer Lake Park v. Dept. of Transportation*, 4 F.3d 1543, 1549 (10th Cir. 1993).

¹³ *Boomer Lake Park*, 4 F.3d at 1549 (10th Cir. 1993) (quoting *Overton Park*, 401 U.S. at 416 (1971)).

requirements under those statutes, and could not form the basis of a reasonable decision that no prudent and feasible alternatives exist that would not impair those resources.

B. 4(f)/6(f) Evaluation Fails to Address Potential Indirect Impacts From Air Pollution.

The Draft Evaluation also fails to evaluate the full scope of potential indirect impacts by failing to investigate and evaluate PM_{2.5} as requested by the Community Objectors and the United States EPA.¹⁴

The Draft Evaluation identifies 117 parks/recreational resources and 133 locally important historic sites in the Airport vicinity as 4(f)/6(f) properties that could potentially be indirectly impacted by the OMP. FAA Order 1050.1E, Appendix A, Paragraph 6.2e explains that:

[u]se within the meaning of section 4(f) includes not only actual physical takings of such lands but also adverse indirect impacts (constructive use) as well. When there is no physical taking, but there is the possibility of constructive use, the FAA must determine if the impacts would substantially impair the 4(f) resource.

As discussed below, there is clearly the "possibility of constructive use" through air pollution impacts on recreational resources.¹⁵ However, the FAA has failed to

¹⁴ On page 3-3 of the Draft Evaluation, the FAA concludes that "[t]here would be no indirect/constructive use impacts on parks or NRHP sites."

¹⁵ FAA Order 1050.1E, Appendix A, Paragraph 6.2f explains that substantial impairment or constructive use occurs when "activities, features or attributes of the resource that contribute to its significance or enjoyment are substantially diminished. A project which respects a park's territorial integrity may still, by means of noise, air pollution, or otherwise dissipate its aesthetic value, harm its wildlife, defoliate its vegetation, and take it in every practical sense." FAA Order 1050.1E Appendix A, Paragraph 6.3 further explains that "[s]ubstantial impairment would occur when impacts to section 4(f) lands are sufficiently serious that the

Comment	Response
63	Please see page L-132 for the response to this comment.
64	<p>The FAA has performed an air quality analysis of PM_{2.5} emissions, including dispersion in coordination with IEPA. The results of the full analyses of PM_{2.5} are included in Section 5.6 of the Final EIS. Further analysis of PM_{2.5} at selected sites (including parks, locally important sites, pocket parks, and historic sites) has also been accomplished and is included in the Final Section 4(f) Evaluation in Section L.2.1.2. The results of the PM_{2.5} analysis indicated that there would be no exceedances of the NAAQS, with or without the proposed O'Hare Modernization, for this pollutant. The NAAQS takes into consideration human health impacts, including the health of sensitive populations, such as asthmatics, children, and the elderly. Here, the FAA used whether there was a violation of the NAAQS to determine if there might be a constructive use. Because there are no exceedances of the NAAQS, FAA concludes there would be no constructive use on the resources at issue.</p> <p>Emissions from non-road diesel construction equipment for the applicable time periods are included in the PM_{2.5} analysis. The project Sponsor (the City of Chicago) has committed to emission reduction measures including measures that would reduce emissions from non-road diesel construction equipment and hazardous air pollutants. The level of reduction from the measures has been quantified (an average 23 percent reduction in diesel particulate matter is anticipated) and is presented in Section 5.6 of the Final EIS. In addition, the City's Sustainable Design Manual has been adopted, and it is referenced in Section 5.6.5.</p> <p>USEPA's mandated sulphur reductions for non-road vehicle diesel fuel begin in 2007 with a restriction to 500 parts per million. Additional reductions are mandated in 2010 with a restriction to 15 parts per million. FAA's air quality analysis conservatively relied upon current sulphur levels in diesel fuel for non-road vehicles until the statutorily mandated time-frame for the sulphur restrictions would take affect. In addition, as a part of the Sponsor's commitment to emission measures, the City of Chicago has committed to require the use of low-sulphur diesel fuels.</p> <p>With respect to the commenter's statements regarding the Clean Air Interstate Rule (CAIR), FAA disagrees that it has relied on reductions from this rule in its air quality analysis, since CAIR does not apply to this project.</p> <p>The commenter's issues on human health risk assessments are addressed within the responses to the commenter's letter dated April 6, 2005 within Appendix U.</p>

adequately investigate this possibility by dismissing the need to quantify and evaluate PM_{2.5} emissions. The Objectors have repeatedly voiced their concerns regarding the FAA's failure to evaluate the potential impacts from OMP-related air pollution. As indicated in the Objectors' DEIS comments dated April 6, 2005, the FAA's failure to conduct an air quality impact analysis for PM_{2.5}, its failure to conduct a human health risk assessment for toxic air pollutants, and its failure to consider the indirect air quality impacts of the project represent significant and fatal defects in the evaluation of environmental impacts. Similarly, as explained in the Objectors' Supplemental DEIS comments submitted on May 6, 2005, all of the 4(f) properties within the study area could potentially be substantially impaired by additional PM_{2.5} air pollution generated by construction of the OMP build-alternatives which could constitute a constructive use of the property.

The U.S. EPA has also requested additional evaluation of PM_{2.5}, and asked that PM_{2.5} be included in all of the Airport Related Emissions Inventories included in chapter 5.6 of the DEIS.¹⁶ The EPA explained that "[b]ecause this project is located in the Chicago PM_{2.5} non-attainment area, PM_{2.5} emissions need to be included to evaluate different alternatives and mitigation measures."¹⁷ While construction activities will be a significant source of PM_{2.5}, the EPA further

values of the site in terms of its prior significance and enjoyment are substantially reduced or lost."

¹⁶ April 6, 2005 letter from Bharat Mathur, Acting Regional Administrator, EPA Region 5, to Philip Smithmeyer, FAA Chicago Airports District Office.

¹⁷ Id.

explained that the need to thoroughly analyze PM_{2.5} emissions is reinforced by the fact that "recent literature, test data, and the FAA report, 'A Review of Literature on Particulate Matter Emissions from Aircraft' all suggest that almost all PM emissions from aircraft engines are PM_{2.5}."

PM_{2.5} is particularly harmful because these fine particles can penetrate deep into lung tissue, and even find their way into the bloodstream.¹⁸ PM_{2.5} can injure the smaller airways of the lungs which the body uses to extract oxygen from the air.¹⁹ EPA has concluded that PM_{2.5} poses significant risks to human health, including significant associations between elevated fine particle levels and premature mortality. Exposure to PM_{2.5} may result in premature death, the aggravation of respiratory and cardiovascular disease, lung disease, impaired lung function, asthma attacks, and cardiovascular problems (including heart attacks and cardiac arrhythmia). The results of exposure to PM_{2.5} include increased hospital admissions and emergency room visits, as well as reduced productivity at school and work. Children and the elderly are most at risk from exposure to these fine particles.²⁰ In a recent letter to EPA Administrator Johnson, EPA's Clean Air Scientific Advisory Committee (CASAC) recommends that the National Ambient Air

¹⁸ See generally 62 Fed. Reg. 38652 (July 18, 1997).

¹⁹ See Kent E. Pinkerton et al., Distribution of Particulate Matter and Tissue Remodeling in the Human Lung, 108 *Env'tl. Health Perspectives* 1063, 1068 (Nov. 2000).

²⁰ See generally 62 Fed. Reg. at 38652; See also PM Centers of UCLA et al., The EPA's Particulate Matter (PM) Health Effects Research Centers Program: A mid-Course (2 ½ year) Report of Status, Progress, and Plans (Prepared for: Public Review by EPA's Science Advisory Board) (Jan. 8, 2002).

Quality Standards for PM_{2.5} be "modified to provide increased public health protection."²¹ CASAC suggests that lowering either the PM_{2.5} annual or 24-hour standard, or both, to a stricter level may reduce health impacts.²²

The majority of the recreational 4(f) properties are used by young children (and adults) for outdoor recreational purposes. It is well established that children are especially vulnerable to the long and short term health hazards associated with air pollutants like PM_{2.5}. Therefore, all of these properties are potentially subject to a substantial impairment and constructive use caused by OMP-related air pollution.

The FAA has done nothing in response to the requests to quantify PM_{2.5} emissions in connection with the OMP. Accordingly, the FAA has no basis to dismiss these concerns and has a duty to conduct further investigation of these well established health risks as a part of its NEPA and NHPA Section 106 review, as well as its Section 4(f)/6(f) evaluation.

Construction activities utilizing diesel powered construction equipment are likely to generate a significant amount of additional PM_{2.5} in an area that is already in non-attainment for this pollutant. Accordingly, the FAA has no basis for

²¹ Letter regarding "Clean Air Scientific Advisory Committee (CASAC) Particulate Matter (PM) Review Panel's Peer Review of the Agency's review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (Second Draft PM Staff Paper, January 2005); and Particulate Matter Health Risk Assessment for Selected Urban Areas: Second Draft Report (Second Draft PM Risk Assessment, January 2005," from Dr. R. Henderson, Chair, Clean Air Scientific Advisory Committee to S. Johnson, Administrator, U.S. EPA of June 6, 2005, at 3.

²² See *id.* at 6-7.

concluding that the 4(f) properties within the study area will not be impacted or substantially impaired by PM_{2.5} pollution.²³ The FAA has apparently done no further analysis, and has provided nothing in the Draft Evaluation to respond to these concerns.

Rather than quantify and evaluate these emissions, the Draft Evaluation summarily dismisses the potential impact of PM_{2.5} by implying that this is an air pollution problem that will somehow take care of itself, and speculating that ambient levels of PM_{2.5} will simply decrease over time as a result of the new EPA rules applicable to heavy-duty diesel engines, and new rules for power plants under the Clean Air Interstate Rule.

The FAA's assertion that the new heavy-duty diesel emissions standards will solve the emissions problems associated with the OMP is absurd. The on-highway and nonroad diesel engine rules were adopted because the EPA recognized that the increasing use of diesel engines in nonroad construction equipment and the ever-increasing number of vehicle miles traveled by diesel-powered highway vehicles were increasing the harmful emissions attributable to the total population of diesel engines (including PM_{2.5}), in spite of increasingly stringent emissions standards for

²³ The DEIS concluded that there are no 4(f) properties that are even potentially subject to substantial impairment caused by air pollution because: "For each of the future construction phases, there were no Section 4(f) lands that would experience exceedences of the NAAQS as documented in Section 5.6, Air Quality." DEIS at 5.8-11. As we explained in our May 6 DEIS comments, the FAA cannot validly reach that conclusion because it simply does not know whether or not this is a true statement. The FAA has made no analysis of the criteria pollutant PM_{2.5} in connection with this DEIS or the 4(f) evaluation.

individual engines.²⁴ In other words, the emissions increases associated with increasing market penetration and use of diesel engines threatened to outstrip the progress in emissions reductions associated with ever more stringent emissions standards for new engines. The new emissions standards touted by the FAA for new diesel engines are simply not a cure-all for OMP-related PM_{2.5} emissions.

The FAA's reliance on these EPA regulatory programs in the Draft Evaluation reflects a misunderstanding of the nature of the programs and their potential impact on OMP project-related emissions. For example, the Draft Evaluation states that "in 2006, diesel fuel will contain 97 percent less sulfur" and that "[r]educing sulfur levels will provide immediate public health benefits by reducing the formation of particulate matter from diesel engines emissions." What the FAA conveniently ignores is that only diesel fuel sold for use in highway diesel engines will have reduced sulfur in 2006. The diesel emissions of greatest concern to the OMP will be from nonroad diesel engines used to construct the OMP, which are not affected by the 2006-2007 highway diesel fuel and emissions standards referenced by the FAA. In addition, the FAA implies that emissions reductions arising from the use of low-sulfur highway diesel fuels and new emissions technologies in on-highway engines beginning with the 2007 model year will result in a dramatic decrease in PM_{2.5} emissions in the Chicago area during the construction of the project. This ignores the fact that the new highway-diesel engine standards set to take effect in 2007 will only reduce emissions from new

²⁴ 66 Fed. Reg. 5008 (January 18, 2001) (Heavy Duty Diesel On-highway Final

engines, and will have only a relatively small incremental effect on emissions from the entire national fleet of over 5 million diesel trucks.²⁵

The FAA also misrepresents the timing and impact of the EPA's new Diesel Rules. This is particularly troubling, because it is the emissions from the diesel engines used to construct the project that will produce the greatest project-related emissions during the construction. According to the EPA, land-based nonroad diesel engines are a "very large part of the diesel mobile source PM_{2.5} inventory, contributing about 47 percent in 1996 and growing . . ."²⁶

The Draft Evaluation states that nonroad diesel fuel sulfur will be cut by "99 percent" and diesel vehicle emissions will be cut by "90 percent," and then states that "[i]n 2007, the use of clean fuels will begin and in 2008 new engine standards take effect."²⁷ This is highly misleading. In fact, the 99% sulfur reductions for diesel fuel will not occur until June, 2010.²⁸ The FAA has similarly overstated the

Rule).

²⁵ *Modern Clean Diesel Technology for the Legacy Fleet*, Diesel Technology Forum, June, 2002. As noted in this white paper, according to the EPA's estimates, due to the longevity of diesel engines, pre-2007 highway diesels will still represent a large number of the total vehicle miles traveled by heavy-duty diesel trucks through the year 2030 and beyond.

²⁶ 69 Fed. Reg. at 38960 (June 29, 2004) (Nonroad Diesel Engines and Fuel Final Rule).

²⁷ Draft Evaluation at 2-20.

²⁸ 69 Fed. Reg. 38958 (June 29, 2004)(Nonroad Diesel Engines and Fuel Final Rule). Nonroad diesel fuel sulfur will be reduced from approximately 3,000 ppm to 500 ppm (the current standard for on-highway fuel) in 2007, and will not be reduced to 15 ppm (the full 99% reduction) until 2010.

phase-in of the new off-road emissions standards. In 2008, new emissions standards for only the smallest engines (< 25 hp) will come into effect. New standards for the larger off-road diesels that would actually be used to construct the OMP will not come fully into effect until 2015, and even then, those more stringent standards only apply to newly produced engines, and not the entire legacy fleet that would be used to construct the OMP.²⁹

These misstatements identify critical gaps in the FAA's understanding of the potential for substantial impairment from PM_{2.5}, since the DEIS has evaluated environmental impacts based on the assumption that construction of Phase One of the OMP will be completed in 2007, before any of the new nonroad emissions standards have taken effect.³⁰ Similarly, in evaluating environmental impacts, Phase Two was projected to be completed in 2009, before any emissions standards for engines above 25 hp are in effect. Finally, the entire project is scheduled to be completed by 2013, two years before the full phase-in of the new off-road rules. Accordingly, the FAA's reliance on the EPA's new diesel engine standards to dismiss the Community Objector's concerns about PM_{2.5} emissions is misplaced and highly misleading. Contrary to the FAA's assertion, the EPA rules referenced will do little if anything to reduce PM_{2.5} impacts during the construction of the OMP.

Likewise, the FAA's reliance on the Clean Air Interstate Rule ("CAIR") is grossly misplaced with respect to attainment and maintenance of the PM_{2.5} NAAQS

²⁹ *Id.*

³⁰ DEIS at 5.0-2.

through the construction phase and beyond. The FAA summarily concludes that "[t]he decrease in regional levels of PM_{2.5} is expected to continue as a result of recent rules such as the Clean Air Interstate Rule"³¹

This summary conclusion is defective because EPA itself has projected that CAIR will not bring DuPage and Cook Counties into attainment with either the PM_{2.5} or 1-hour ozone NAAQS. CAIR is designed as a multi-state cap-and-trade program that has as its goal the reduction in the frequency and severity of NAAQS violations in the eastern half of the United States. Under CAIR, emission sources determine on a case-by-case basis whether it will be more economically advantageous to install pollution controls, curtail production, or simply purchase available emission allowances from other sources. It is not, however, designed to assure that any particular air quality control region ("AQCR") will attain and maintain NAAQS. Indeed, EPA's own projections have concluded that by 2015, the O'Hare AQCR will not have reached attainment with the PM_{2.5} NAAQS as a result of CAIR.³² As a result, the FAA's conclusion that CAIR will necessarily have a beneficial impact on the local AQCR is entirely misplaced.

Finally, the FAA asserts that because DuPage and Cook Counties have already been designated non-attainment for PM_{2.5}, the 4(f) recreational resources are already experiencing PM_{2.5} air pollution that exceeds the NAAQS, and that therefore "any additional PM emissions generated by a potential Build Alternative for O'Hare are not reasonably expected to interfere with the continued use and

³¹ Draft Evaluation at 2-20.

enjoyment of the resources at issue.”³³ Introducing more air pollution where there is already too much does not eliminate the problem. As discussed above, PM_{2.5} is an air pollutant that has been recognized by the EPA as having potentially serious health effects. The health risks are related to the concentration of PM_{2.5} to which the population is exposed. Therefore, increasing ambient concentrations of PM_{2.5} in an area, especially where that area already exceeds the EPA's National Ambient Air Quality Standard for that pollutant, will only exacerbate the related health risks of the project and increase the likelihood of substantial impairment to 4(f)/6(f) resources. Therefore, these assertions provide no support for the FAA's decision not to fully investigate and evaluate PM_{2.5}.

The FAA also attempts to dismiss the PM_{2.5} issue by making the opposite argument, concluding that regional measured ambient levels of PM_{2.5} are expected to decrease over time.³⁴ If PM emissions decline below the NAAQS, and then are increased above the NAAQS as a result of the OMP, then the OMP could very well interfere with the continued use and enjoyment of the 4(f)/6(f) resources by causing an area that would otherwise be in attainment to exceed the health-based thresholds established by the NAAQS. Under the FAA's environmental guidelines,

³² See <http://www.epa.gov/airprogm/oar/interstateairquality/pdfs/cairimp2015.pdf>.

³³ Draft Evaluation at 2-20.

³⁴ *Id.* The FAA's trend analysis does not attempt to account for the potential emissions impacts of the OMP.

if a project is expected to exceed the NAAQS for any criteria air pollutant, then it must conduct more analysis, not less.³⁵

None of the FAA's assertions about PM_{2.5} in the Draft Evaluation justify its failure to further evaluate this pollutant in either its NEPA, NHPA Section 106, or Section 4(f)/6(f) evaluations.

C. FAA Mischaracterizes Schuster Park.

The Draft Evaluation identifies Schuster Park as both a 4(f) and 6(f) property. Section 6(f) of the Land and Water Conservation Fund Act, 16 U.S.C. § 4601-8(f)(3) establishes additional requirements with respect to 6(f) properties. Specifically, 6(f) property may not be converted from public outdoor recreational use without the approval of the Regional Directors of the National Park Service (NPS) (pursuant to delegation from the Secretary of Interior). This approval shall only be provided where the NPS provides that the conversion is "in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreational properties of at least equal fair market value and of reasonably equivalent usefulness and location."

In order to evaluate the equivalency of the usefulness and location of potential replacement properties for Schuster, it is critical to properly characterize

³⁵ See FAA Order 1050.1E, Appendix A, Section 2.2d ("If . . . there is potential for the proposed action to cause the area to exceed the NAAQS, then further consultation, analysis, and documentation will be required in an EA or EIS . . .").

Comment	Response
64	Please see the response to this comment on page L-136.
65	<p>Schuster Park is a part of a system of parks within the Bensenville Park District boundaries and appears to provide facilities and a level of service similar to that of other parks within the Village of Bensenville and general vicinity. The impacts to this park would require mitigation under Section 4(f) as well as under Section 6(f). FAA agrees with the commenter that 6(f) property may not be converted from public outdoor recreational use without the approval of the Regional Directors of the National Park Service (NPS). However, FAA disagrees with commenter's assertion to the effect that compensatory park facilities must be located close to the location of the existing park and must also be administered by the same political jurisdiction as the converted property.</p> <p>Any conversion of Section 6(f) property, specifically Schuster Park, would be conducted in a manner consistent with the requirement of 36 CFR 59.3. In particular, based on 36 CFR 59 (b)(3)(ii), the NPS will determine the "equivalent usefulness and location," by considering factors, including the following:</p> <p>"Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public outdoor recreation needs. While generally this will involve the selection of a site serving the same community(ies) or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for outdoor recreation, then the project sponsor should seek to locate the substitute area in another location within the jurisdiction. Should a local project sponsor be unable to replace converted property, the State would be responsible, as the primary recipient of Federal assistance, for assuring compliance with these regulations and the substitution of replacement property."</p> <p>Section 6(f) provides that NPS shall only approve a conversion if it is "in accord with the then existing comprehensive statewide outdoor recreation plan." Section L.4 of the Section 4(f) and 6(f) Evaluation includes a discussion of the Statewide Comprehensive Outdoor Recreational Plan (SCORP) for Illinois. A specific mitigation plan will be developed in cooperation with the Bensenville Park District, IDNR, NPS, and the FAA.</p>

the purpose and use of the existing resource. The Draft Evaluation describes

Schuster Park as follows:

Based on the location of this park, its assets, and size, this park appears to be a neighborhood park. The residences in close proximity to the park, whose occupants are likely the primary users of this park, would be acquired under any of the Build Alternatives. Therefore, the location of the replacement property would not necessarily need to be located in close proximity to the current park location.³⁶

The characterization of this park and the related legal conclusions with respect to the acceptable location of any replacement are incorrect. Schuster Park (and the adjacent parkland – Bretman Park – owned by the Village of Bensenville) is a significant recreational resource currently used by citizens residing throughout the Village of Bensenville, not just those that would be displaced by Build Alternatives. The Village of Bensenville has plans to upgrade Bretman Park with additional recreational facilities to make Bretman Park even more of a recreational resource for residents from throughout Bensenville. It is the Village's hope that under a cooperative relationship with the Bensenville Park District, the Bretman-Schuster complex will – even more than it is today – be one of the major recreational resources in Bensenville.”

Accordingly, pursuant to 36 C.F.R. § 59.3(b)(3), any replacement for Schuster Park must meet the similar recreational needs (basketball, soccer, picnicking, playground, biking and significant open space), be located in at least a “reasonably equivalent location,” be accessible by the same “user community,” and also be

³⁶ Draft Evaluation at 3-4 and 4-3 to 4-4.

administered by the "same political jurisdiction as the converted property" (presumably either the Bensenville Park District or the Village of Bensenville itself).³⁷

IV. Conclusion.

For the reasons presented above, the FAA's Draft Evaluation of 4(f) and 6(f) properties is fatally flawed and the FAA may not approve or permit the project to go forward.

Respectfully submitted,



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Grove Village

³⁷ 36 C.F.R. § 59.3(b)(3)(iii). Although exceptions to the rule of locating replacement property close by the converted property are discussed in NPS regulations, Schuster Park, accurately described, would not fall within one of these exceptions.

Comment	Response
65	Please see the response to this comment on page L-142.
66	The FAA disagrees with the commenter's characterization of the Draft Evaluation. The FAA has outlined the reasoning for disagreement throughout the responses to this document. In addition, the FAA has made changes to the Draft Evaluation in the Final Evaluation addressing further the comments contained herein.

BEFORE THE
FEDERAL AVIATION ADMINISTRATION
CHICAGO AIRPORTS DISTRICT OFFICE

In the matter of the)

DRAFT SECTION 4(f) AND SECTION)
6(f) EVALUATION FOR THE O'HARE)
MODERNIZATION PROGRAM)
(OMP))

Affidavit of William Marx

William J. Marx, being first duly sworn on oath, deposes and says:

1. I currently serve as President of Marx Aviation Consultants in Selden, New York in the metropolitan New York City area.

2. My firm and I provide technical advice and assistance on aviation and airport matters to airlines, airports, municipalities, and other clients.

3. Prior to founding Marx Aviation Consultants, I served for 32 years as an aviation professional with the Federal Aviation Administration.

4. In my career with FAA, I held a number of senior positions with regard to air traffic design and air traffic management. These positions included:

- A. Program Coordinator, Air Traffic Quality Assurance Staff, Eastern Region Air Traffic Division which dealt with air traffic control for the entire FAA Eastern Region including all the air traffic in the New York City metropolitan area (including JFK, LaGuardia, and Newark Airports)

Comment	Response
67	In responding to the comments within the main text of this submittal of comments on the Draft Section 4(f) and Section 6(f) Evaluation, the FAA has reviewed the contents of the Mr. Marx's affidavit and notes its inclusion herein.

67

- B. Acting Deputy Director, Office of Air Traffic System Management for the entire FAA with responsibility to manage the national airspace system including air traffic flows into and out of the major airports throughout the nation.
 - C. Program Manager, Civil Operations, Office of Air Traffic System Management, implemented traffic management strategies and policies for the nation's air traffic system.
 - D. Special Projects Officer, Eastern Region Air Traffic Division, primary responsibility for examining environmental impacts of an air traffic management strategy known as the "Expanded East Coast Plan", which dealt with air traffic flow into and out of the New York metropolitan area airports and the impacts of that strategy on the State of New Jersey.
 - E. Air Traffic Manager/Assistant Air Traffic Manager, LaGuardia Air Traffic Control Tower, responsibility for management of all air traffic control operations for the LaGuardia Airport Control Tower, one of the nation's most congested (*i.e.*, delayed) airports.
5. I have been retained by the municipalities of Bensenville and Elk Grove Village to examine air traffic issues relating to Chicago's proposed "O'Hare Modernization Program" (OMP), including the evaluation of alternatives to the OMP.
6. I am familiar with a concept which the FAA has labeled — in the Draft Environmental Impact Statement (DEIS) for the OMP — "Blended Alternatives". These "blended alternatives" are alternatives which involve some level of runway and taxiway facilities at an airport such as O'Hare — coupled with the use of what FAA calls "congestion management" techniques to manage delays to acceptable levels combined with the use of other airports

to carry the excess traffic that would otherwise use the airport if there were no constraints on capacity.

7. Blended alternatives are certainly feasible and are in widespread use by FAA in several metropolitan areas of the United States:

- A. FAA is using a blended alternative at LaGuardia in New York — using the existing LaGuardia airfield in combination with congestion management techniques which control delays while causing excess traffic that would otherwise use LaGuardia to use other New York metropolitan area airports.
- B. FAA used a similar blended alternative at Washington D.C.'s Reagan National Airport — using the existing Reagan National airfield in combination with congestion management techniques which control delays while causing excess traffic that would otherwise use Reagan National to use other Washington metropolitan area airports.
- C. FAA is currently using a similar blended alternative at O'Hare using the existing O'Hare airfield in combination with congestion management techniques which control delays while causing excess traffic that would otherwise use O'Hare to use other airports, including other hub airports in other cities.
- D. FAA has recently approved a blended alternative plan for the Los Angeles metropolitan area which will use physical limitations on facilities at LAX to constrain LAX traffic at new LAX facilities to no more than that level of future traffic which would occur at the existing LAX— and diverting excess traffic that would otherwise use LAX to other metropolitan Los Angeles Airports.

8. Alternatives H-L of the alternatives identified and described in the April 6, 2005 and May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove are all blended alternatives which would control delay to acceptable levels and also handle forecast growth in the same way that the blended alternatives described in Paragraph 7 above are used by FAA. Further, based on the delay analysis set forth by the FAA in the DEIS and using more current 2003 or 2004 Terminal Area Forecasts (TAF), it is clear that both FAA's Phase One and the full OMP will require some form of congestion management with use of other airports (*i.e.*, a blended alternative) within a few short years after these facilities are opened.

9. As part of my evaluation of alternatives to OMP, I — along with my colleagues Mr. Joseph Del Balzo (former Acting Administrator of the FAA) and Dr. Kenneth Fleming (a nationally respected aviation engineering expert from Embry-Riddle Aeronautical University) — met with air traffic control representatives of the O'Hare Tower to discuss various aspects of the OMP proposal and alternatives to the OMP proposal.

9. These air traffic controllers expressed serious reservations about the safety and practicality of the full-build OMP and also expressed serious reservations about the operational and delay problems associated with "Phase One" of the OMP.

10. The description of the controllers' expressed concerns set forth in the April 6, 2005 and May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove are true and accurate descriptions of this O'Hare Tower controllers' communications to me and my colleagues.

11. In our discussion sessions with the controllers we asked them what alternatives the controllers would prefer to be installed at O'Hare.

12. Alternative L-1 which is attached to the May 5, 2005 affidavit of Mr. Joseph Del Balzo, submitted with the April 6, 2005 and May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove, is a true and correct reflection of the alternative that the controllers preferred.

13. I am also aware of the fact that on May 20, 2005 the FAA issued a document entitled *Draft Section 4(f) and Section 6(f) Evaluation* (Draft Evaluation) in which an unidentified representative of the FAA raised criticisms of the "L related alternatives" submitted with the communities May 6, 2005 submission. These criticisms are contained at pp. 1-19 to 1-23 of the Draft Evaluation.

14. Before I address FAA's criticism of the "L related alternatives" I take issue with the FAA's continued rejection of Alternatives H-K and other blended alternatives. FAA in the DEIS and now in the Draft Evaluation persists in stating that FAA has no power to implement blended alternatives that use congestion management and other airports. Yet as I describe in Paragraph 7 of this affidavit, FAA has in the past and is currently implementing such blended alternatives in metropolitan areas throughout the United States, including the Chicago metropolitan area.

15. I have examined the criticisms of the "L related alternatives" set forth at 1-19 to 1-23 of the Draft Evaluation. My colleagues (Joseph Del Balzo and Dr. Kenneth Fleming) also carefully examined each of these criticisms (made by an unidentified FAA employee or consultant of unknown experience and qualifications). We find these criticisms to be without merit. Our technical responses to each of these criticisms are accurately set forth in the *COMMENTS ON AND OBJECTIONS TO THE DRAFT SECTION 4(f) AND SECTION 6(f) EVALUATION FOR THE O'HARE MODERNIZATION*

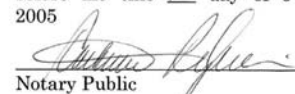
PROGRAM to be filed on July 5, 2005 by the communities of Bensenville and Elk Grove Village.

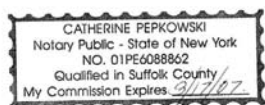
16. To verify the accuracy of our responses we met again with a controllers' representative from the O'Hare tower and discussed with the O'Hare Tower controllers' representative both the FAA criticisms of the L alternatives and our technical responses. The O'Hare Tower controllers' representative confirmed the accuracy of our responses.

I declare under penalty of perjury that the foregoing is true and correct.


William Marx

SUBSCRIBED and SWORN TO
before me this 4 day of July,
2005


Notary Public



BEFORE THE
FEDERAL AVIATION ADMINISTRATION
CHICAGO AIRPORTS DISTRICT OFFICE

In the matter of the)
DRAFT SECTION 4(f) AND SECTION)
6(f) EVALUATION FOR THE O'HARE)
MODERNIZATION PROGRAM)
(OMP))

Affidavit of Kenneth Fleming

Kenneth H. Fleming, first duly sworn on oath, deposes and says:

1. I currently serve as Director, Air Traffic Management Research at the School of Aviation, Embry-Riddle Aeronautical University, in Daytona Beach, Florida.
2. I have a Ph.D. in Economics from the University of California at San Diego.
3. Since 1988 I have been a tenured professor at Embry-Riddle Aeronautical University, serving first as Chairman of the Department of Business Administration (1988-1994) and from 1994 to the present as Director, Air Traffic Management Research at the School of Aviation at Embry-Riddle.
4. From 1982 to 1988 I served on the faculty of the United States Air Force Academy at Colorado Springs, Colorado — first as Chairman and Professor, Department of Economics at the Air Force Academy (1982-1986) and then as Vice Dean of the Air Force Academy (1986-1988).
5. From 1979-1981 I served as Commander of the 704th Tactical Air Support Squadron, United States Air Force and from 1981-1982 as

Comment	Response
68	In responding to the comments within the main text of this submittal of comments on the Draft Section 4(f) and Section 6(f) Evaluation, the FAA has reviewed the contents of the Mr. Fleming's affidavit and notes its inclusion herein.

68

Assistant Deputy Commander for Operations, 601st Tactical Control Wing, United States Air Force.

6. My expertise at Embry-Riddle is in a wide variety of areas involving air traffic control and air traffic management.

7. During the past ten years, I have been involved in a multitude of programs where modeling and simulation technologies were used to assess and evaluate airspace and airport operations, delay and capacity problems, and proposed new National Airspace procedures. These initiatives included funded research programs for the FAA, NARI, Lockheed Martin Corporation, Boeing Corporation, Harris Corporation, Honeywell Corporation, NASA Ames Research Center and NASA Langley Research Center, as well as numerous other customers with a requirement for economic or operations research-oriented analysis in aviation systems and facilities.

8. At the present time I lead a group of 15 research analysts and computer programmers at Embry-Riddle who are actively participating in applied aviation research projects with Boeing, NASA, and the FAA. I was the principal author or co-author of over 17 reports over the past six years that have dealt with all aspects of aviation and airspace management.

9. In addition to my academic qualifications and experience, I am a former United States Air Force pilot with over 3,000 hours in nine different aircraft, including bombers, transports, and single-seat fighters.

10. I, along with my colleagues Mr. Joseph Del Balzo (former Acting Administrator of the FAA) and Mr. William Marx (a former senior FAA air traffic management expert), have been retained by the municipalities of Bensenville and Elk Grove Village to examine air traffic issues relating to Chicago's proposed "O'Hare Modernization Program" (OMP), including the evaluation of alternatives to the OMP.

11. In my analysis of the OMP and alternatives, I have focused on a concept called "blended alternatives". Blended alternatives are alternatives which involve some level of runway and taxiway facilities at an airport such as O'Hare in conjunction with the use of what FAA calls "congestion management" techniques to manage delays to acceptable levels and combined with the use of other airports to carry the excess traffic that would otherwise use the airport if there were no constraints on capacity.

12. Blended alternatives are feasible and are in widespread use by FAA in several metropolitan areas of the United States. I concur and agree with the conclusions set forth in the affidavit of Mr. William Marx dated July 1, 2005, including his observation that blended alternatives are being used currently at O'Hare, at LaGuardia in New York, at Washington D.C.'s Reagan National Airport and have been approved by FAA for the Los Angeles metropolitan area (*i.e.*, LAX in combination with other local airports).

13. I also agree and concur with the statements in Mr. Marx's July 1, 2005 affidavit that:

- A. Alternatives H-L of the alternatives identified and described in the April 6, 2005 and May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove are all blended alternatives which would control delay to acceptable levels and also handle forecast growth in the same way that the blended alternatives described in Paragraph 7 above are used by FAA.
- B. Based on the delay analysis set forth by the FAA in the DEIS and using more current 2003 or 2004 Terminal Area Forecasts (TAF), both the City's Phase One and the full OMP will require some form of congestion management coupled with use of other

airports (*i.e.*, a blended alternative) shortly after these facilities are opened.

14. I, along with my colleagues Joseph del Balzo and William Marx, have met on numerous occasions with air traffic controllers who work at the O'Hare Tower to discuss various aspects of the proposed OMP and alternatives to the OMP proposal.

15. I also agree and concur with the statements in Mr. Marx's July 1, 2005 affidavit as to the content of our conversations with the controllers:

- A. These air traffic controllers expressed strong concerns about the safety and efficiency of the full-build OMP and also expressed strong concerns about the serious operational and delay problems associated with "Phase One" of the OMP.
- B.. The description of the controllers' expressed concerns as set forth in the April 6, 2005, May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove and in the *COMMENTS ON AND OBJECTIONS TO THE DRAFT SECTION 4(f) AND SECTION 6(f) EVALUATION FOR THE O'HARE MODERNIZATION* dated July 5, 2005, are true and accurate descriptions of the O'Hare Tower controllers' communications to me.
- C. Alternative L-1 which is attached to the May 5, 2005 affidavit of Mr. Joseph Del Balzo, submitted with the April 6, 2005 and May 6, 2005 submissions to the FAA by the communities of Bensenville and Elk Grove, is a true and correct reflection of the alternative that the controllers preferred over Phase One of the OMP and the OMP.

16. I am aware that the FAA issued a document entitled *Draft Section 4(f) and Section 6(f) Evaluation* (Draft Evaluation) on May 20, 2005. In that document, as in the FAA's Draft Environmental Impact Statement (DEIS) for the OMP, FAA asserts the position that the FAA does not have the authority to implement a "blended alternative" for O'Hare, *i.e.*, the use of O'Hare with various runway configurations in conjunction with congestion management and the use of other airports to handle excess traffic demand.

17. I strongly disagree with that assertion by the FAA. As described in paragraph 7 of Mr. Marx's affidavit and in paragraph 12 of this affidavit, FAA is using blended alternatives in metropolitan areas throughout the country. Further, as I noted above, both Phase One and the full OMP will face rising delays (using either the 2003 or 2004 Terminal Area Forecast) shortly after they are completed— each requiring a "blended alternative" of congestion management combined with the use of other airports to handle excess demand.

18. I am also aware that in the Draft Evaluation an unidentified representative of the FAA raised criticisms of the "L related alternatives" submitted with the communities May 6, 2005 submission. These criticisms are contained at pp. 1-19 to 1-23 of the Draft Evaluation.

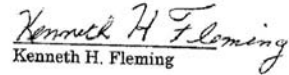
19. Working with Mr. Del Balzo and Mr. Marx, I prepared the "L related alternatives" which are described in and attached to Mr. Del Balzo's April 5, 2005 affidavit. Alternative L-1 reflects the alternative preferred by the controllers over Phase One and the full OMP.

20. I and my colleagues (Joseph Del Balzo and Mr. William Marx) also carefully examined each of the criticisms raised by the FAA in the Draft Evaluation as to the "L related alternatives". Our technical responses to each of these criticisms are accurately set forth in the *COMMENTS ON AND*

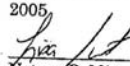
OBJECTIONS TO THE DRAFT SECTION 4(f) AND SECTION 6(f)
EVALUATION FOR THE O'HARE MODERNIZATION dated July 5, 2005.
For the reasons set forth in that submission, FAA's criticisms are without
merit.

21. As set forth in Mr. Marx's July 1, 2005 affidavit, after the
release of the FAA's Draft Evaluation, we met again with a controllers'
representative from the O'Hare tower and discussed with the O'Hare Tower
controllers' representative both the FAA criticisms of the L alternatives and
our technical responses. The O'Hare Tower controllers' representative
confirmed the accuracy of our responses as set forth in the COMMENTS ON
AND OBJECTIONS TO THE DRAFT SECTION 4(f) AND SECTION 6(f) EVALUATION
FOR THE O'HARE MODERNIZATION dated July 5, 2005. .

I declare under penalty of perjury that the foregoing is true and correct.


Kenneth H. Fleming

SUBSCRIBED and SWORN TO
before me this 5 day of July,
2005.


Notary Public

LISA SWEITZER
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # DD228988
EXPIRES 7/2/2007
BONDED THRU 1-800-NOTARY1

WMAQ NBC 5 Chicago**June 29, 2005****Transcript of newscast 6:00 p.m. and 10:00 p.m.**

Intro Announcer - Live from Chicago's NBC 5, this is NBC 5 news at 6".

Craig Burzych, President of the NATCA O'Hare Tower-

- "Some where along the line, the number one priority, went from fixing O'Hare; to making it into a huge, long, expensive project."

Warner Saunders, NBC 5 News, Anchor

- "It is a project that some say will cost as much as \$20 billion. But those who control the air traffic over O'Hare Airport say all of that money just isn't necessary. The controllers say they have an easier and cheaper solution. Good evening, I'm Warner Saunders."

Allison Rosati, NBC 5 News, Anchor

- "And I'm Allison Rosati. Well what is that solution? NBC 5's Phil Rogers is in our control room tonight with what the flight controllers have to say. Phil."

Phil Rogers, NBC 5 News, Reporter

- "Alison, its no secret that the O'Hare controllers have not been big fans of the city's plans for airport expansion. But today, the men and women who manage arrivals and departures at O'Hare came out with their strongest statement to date, essentially; they said, 'don't build the Mayor's plan, build ours.'"

Craig Burzych, Controllers' Union President

- "[You know] It's a simple fix, the reason why it's not being done is because the people who are building O'Hare expansion - the city of Chicago - never came to us."

Phil Rogers, NBC 5 News, Reporter

- "The city wants to spend an estimated \$15 billion, some say more, to change the O'Hare configuration to six parallel runways. Controllers contend that's a waste of money. They say a single new runway on the airport's South end would accomplish the same benefits at a fraction of the cost."

Craig Burzych, Controllers' Union President

- "This would help immediately. If this runway would open tomorrow, you would see an immediate reduction or elimination of poor weather arrival delays."

Phil Rogers, NBC 5, Reporter

- "Look again. This is the existing airfield, this is the multi-billion dollar plan the city wants to build with six parallel runways. The controllers contend they can accomplish the same thing with an existing airfield and a single, new parallel runway right here".

Craig Burzych, Controllers' Union President

- "Parallel numbers four (4), five (5) and six (6) is overkill. Parallels four (4), five (5) and six (6) do not add any benefit to the arrival delay situation at O'Hare."

69

Comment	Response
68	<p>In responding to the comments within the main text of this submittal of comments on the Draft Section 4(f) and Section 6(f) Evaluation, the FAA has reviewed the contents of the transcript of the June 29, 2005 newscast.</p> <p>In response to this comment and others, the FAA has evaluated two alternatives with a single south runway. This evaluation is contained in Chapter 3, Section 3.6 of the Final EIS. Please see this section of the EIS, where FAA has evaluated the two alternatives, which FAA refers to as: (1) Derivative M – No Action with a New South Runway only (4300' south from existing Runway 9R/27L); and (2) Derivative N - No Action with a New South Runway only (5000' south from existing Runway 9R/27L).</p>

Phil Rogers, NBC 5, Reporter

-But there's more. The city's plan would be built in phases; with the first new runway to go here (he points to a map on a screen) on the North side. But again, the controllers want only one new runway, here on the South end of the field. They contend the Mayor's plan is exactly the opposite of what they need and what would work."

Craig Burzych, Controllers' Union President

-It's impossible for us to land airplanes on that North runway and depart other runways at the same time. It's impossible. It's not safe, it's against the rules and it won't happen."

Phil Rogers, NBC 5, Reporter

-Suburban leaders proposed a variance of the controllers plan in their filings with the FAA. It was summarily rejected. Men and women in the towers say that's a mistake."

Craig Burzych, Controllers' Union President

-This is the quickest, cheapest and safest fix to fixing O'Hare airport today."

Phil Rogers, NBC 5, Reporter

-Now again, the FAA examined a variation of the controllers plan and rejected it saying it would require too much coordination with crossing runways and would not provide needed growth. The controllers note they're the ones that manage the traffic and say that the FAA's criticisms are simply wrong. The City of Chicago stands by their plan but agrees this is clearly the FAA's call."

**COMMENTS IN REGARD TO:
THE FEDERAL AVIATION ADMINISTRATION'S DRAFT
SECTION 4(f) AND SECTION 6(f) EVALUATION FOR
CHICAGO O'HARE INTERNATIONAL AIRPORT**

Prepared by



Dr. Brian M. Campbell, Chairman
Rex J. Edwards, Senior Associate
James Lundy, Senior Analyst

700 North Fairfax Street
Suite 300
Alexandria, VA 22314

July 5, 2005

1.0 Introduction and Summary

The FAA's Draft Section 4(f) and Section 6(f) Evaluation for the O'Hare Modernization Program, like the DEIS, is defective for many critical reasons:

- It does not contain the detailed analysis required for such a large potential commitment of federal funds.
- The FAA reconfirms its rejection of other viable alternatives, not with analysis, but with conclusions.
- It dismisses the use of alternative mid-continent airports by saying that it does not have authority to "provide control over airline service patterns at O'Hare and possible other airports¹" when it is clear that the exercise by FAA of its authority (to approve or disapprove applications for airport grants and PFC funds, or to impose congestion management) will influence service patterns at O'Hare and result in shifts of traffic to other regional and hub airports.
- The FAA ignores the historical growth in traffic at Midway when it states... "the practical limit of potential diversion of demand from O'Hare is estimated to be far less than the likely availability of capacity at other regional airports.²" There is no analysis supporting this conclusion. It is simply made-up.
- The FAA improperly rejects congestion management by concluding that..."congestion management alone is not likely to result in accommodation of unconstrained passenger demand without other improvements or actions³" while ignoring the fact that OMP will reach capacity and experience massive delays soon after it is completed which will require continuation of current congestion management virtually in perpetuity.
- Moreover, FAA simply ignores the reality that the massive cost of building the OMP will on the basis of industry economics and market forces drive traffic and service to other airports.⁴

¹ FAA, Draft Section 4(f) and Section 6(f) Evaluation: Chicago O'Hare International Airport, page 1-10, May 2005.

² Ibid, page 1-10

³ Ibid, page 1-11

⁴ The FAA's imposition of a lottery/allocation mechanism at LaGuardia (Docket FAA-2000-8278, 65 Fed. Reg. 75765 (December 4, 2000), flight limitations at O'Hare (Order of August 18, 2004, Docket FAA-2004-16944) and the High Density Rule which continues at DCA (14 C.F.R. Part 93, Subpart K) are classic examples of the Agency's lawful exercise of its authority to allocate and optimize the use of limited capacity.

Comment	Response
70	The FAA disagrees with the commenter's characterization of the Draft Section 4(f) and Section 6(f) Evaluation (Draft Evaluation). The FAA notes that in response to these comments and others filed by these commenters' the FAA has added a detailed evaluation of the "alternatives" suggested herein.
71	As mentioned in other previous responses, any funding decisions regarding the proposed action are outside the NEPA process.
72	The FAA disagrees with this assertion. See response to comment 70.
73	The FAA has provided additional information regarding FAA's evaluation of the use of mid-continent hubs in the Agency's response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, beginning on page U.4-501. Specifically, please see response to comments 129-132 beginning on page U.4-586 of that document.
74	The quotation from the Draft Evaluation is based on information contained in the EIS. The basis for the statement regarding the "practical limit of the potential diversion" can be found in the FAA's evaluation of the use of other airports in Appendix C of the EIS.
75	The FAA disagrees that "OMP will reach capacity and experience massive delays soon after it is completed." The comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 2.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-525.
76	The comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 3.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.558.

- Finally, the FAA rejects the "blended alternative" is based on a series of bootstrap claims that have no analytical support and which has as its foundation the erroneous assertion that FAA does not have the authority to influence airlines using other airports. The blended alternatives submitted by the Objectors combine congestion management (a necessary ingredient even under OMP due to massive delays) coupled with the rational market-based decisions of air carriers switching to larger aircraft in a constrained environment, and providing market incentives for connecting passengers to use other hubs (e.g. St Louis).

2.0 The FAA Did Not Perform a Thorough Analysis of the Potential Use of Alternative Airports

2.1 Increased Use of Mid-Continent Airports

The FAA discusses its assumption that the use of other mid-continent airports is an infeasible alternative only in the final two paragraphs of page 1-10 of the FAA's Draft Section 4(f)/6(f) Evaluation, and only in two pages of the 5,000+ page DEIS.⁵ If the FAA had performed a detailed analysis it would have discovered that the airlines can and will easily shift passengers to other airports, the FAA has the ability and the authority to encourage such behavior, that other mid-continent airports have ample available capacity, and that none of these activities would diminish ORD's ability to function as a domestic hub and an international gateway.

2.1.1 The Airlines Have Ability and an Economic Self-Interest to Shift Connecting Traffic

In a congested environment (and environment that will exist under OMP and Phase 1) it is highly likely that airlines will utilize other mid-continent airports for some connecting traffic so they can accommodate higher-value local O&D passengers at O'Hare. United and American Airlines stated that this would be the case a 1996 letter to the president of the Greater O'Hare Association of Industry and Commerce ... "The airlines have the ability to route connecting passengers through other hubs thus accommodating local passengers or increase in local demand. Local passengers have the priority."⁶ This quotation clearly illustrates that airlines can and will easily shift passengers when capacity is limited. The diversion of passengers to other mid-

⁵ FAA, *O'Hare Modernization Draft Environmental Impact Statements*, pages 3-20 and C-29, January 2005.

⁶ United Airlines and American Airlines, *Letter to Laurie Stone*, January 22, 1996.

Comment	Response
77	<p>The comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 4.0</i> of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.</p> <p>In addition, the FAA notes that in response to these comments and others filed by these commenters' the FAA has added a detailed evaluation of the "alternatives" suggested herein. This evaluation is contained in Chapter 3, Section 3.6 of the Final EIS.</p>
78	<p>The comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 4.0</i> of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581. Specifically, please see response to comments 129-132 of that document beginning on page U.4-586.</p>
79	<p>The commenter offers as evidence a letter written by airline representatives in 1996. The FAA's analysis of ORD demand-capacity conditions is based on data through 2004, and therefore represents more current and relevant conditions than existed in 1996.</p> <p>The FAA notes that during the public hearing conducted by the FAA for the EIS, both American and United Airlines appeared in support of this project, see page U.6-52 (American) and U.6-98 (United).</p> <p>For further information please see the FAA responses to <i>Section 4.0</i> of <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.</p>

continent hubs would have a trivial impact on the Chicago regional economy because connecting passengers contribute very little to the economy.

2.1.2 The FAA Has the Power and Ability to Influence Connecting Traffic Flows

The FAA has made numerous statements in the DEIS and the 4(f)/6(f) Evaluation about its belief that the FAA cannot "direct how airlines conduct their network operations."⁷ This is simply an unsupported excuse for rejecting alternatives that would encourage the use of other airports or, for that matter, consider market-driven traffic and service shifting as part of the "No Action" scenario or as part of a blended alternative including less destructive on-airport runway configurations. The fact is that the FAA encourages airlines to use other airports every time it determines whether or not to fund airport projects or imposes capacity limits at an airport through the exercise of its authority to regulate the efficient use of the airspace. The FAA has influenced and indeed controlled airline services for many years. LaGuardia, O'Hare and Reagan Washington National are examples of the FAA's exercise of its plenary authority to impose limitations on airline service. Shortly after Air 21 eliminated the High Density Rule at LaGuardia, the FAA imposed a lottery/allocation process imposing limits on the number of air carrier operations at that airport. Docket FAA-2000-8278, 65 Fed. Reg. 75765 (December 4, 2000). FAA has imposed hourly caps on O'Hare operations. At Reagan Washington National Airport the FAA has limited air carrier slots, invoked arbitrary perimeter rules⁸, administered strict nighttime curfews on jet operations, and even prohibited four-engine jets in the 1960's and 1970's.⁹ Since airlines have had restricted access to DCA they have had to fly to other airports when, if the FAA had not imposed limits, they would have operated from DCA instead. Even the NPRM released on March 25, 2005 that proposes extending the current O'Hare arrival constraints until 2008 is replete with statements that demonstrate that the FAA does believe that it has control over airline services in a constrained environment. One of these statements is as follows... "As discussed above, Arrival Authorizations are not property rights but are temporary operating privileges. As such, **they remain subject to FAA control.**" (emphasis added)¹⁰

⁷ FAA, Draft Section 4(f) and Section 6(f) Evaluation: Chicago O'Hare International Airport, page 1-10, May 2005.

⁸ The perimeter rules were used to balance airline services at DCA, IAD and BWI, and to protect the long haul services at IAD and BWI.

⁹ Based on FAA's authority to control the efficient use of airspace and noise, not as a matter of safety.

¹⁰ FAA, NPRM, 14 CFR Part 93: Congestion and Delay Reduction at Chicago O'Hare International Airport, March 25, 2005.

Comment	Response
80	<p>As a matter of law, the FAA disagrees with the commenter's assertion that the activities ascribed to it constitute the authority to direct carriers to utilize airports with available capacity.</p> <p>For further information please see the FAA responses to <i>Section 4.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.</p>

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2.1.3 The Ability of Mid-Continent Airports to Handle the Diverted ORD Traffic

The FAA's responsibility is to create and maintain a National Airspace System (NAS), not an airspace system focused solely on the Chicago region. Based on this Congressional mandate, it was irresponsible of the FAA to not thoroughly consider the use of other mid-continent airports in the NAS. There are at least eleven mid-continent hubs that are utilizing less than 80% of their current FAA Capacity Benchmark capacity (See Table 1-1 below). Among these airports is St. Louis, where by 2007 a new \$1.1 billion runway supported by substantial FAA AIP funds will be available for use. An FAA policy that supports the use of other mid-continent airports could accomplish an efficient use of the NAS capacity available at a fraction of the \$21.1 billion¹¹ cost of the OMP.

Table 1-1
There Are At Least 11 Mid-Continent Airports That Are Utilizing Less Than 80% of Their Capacity

Airport	Average Annual Capacity	Actual Operations	Capacity Utilization
PIT	840,905	336,346	40%
MEM	875,644	381,036	44%
DEN	1,153,856	566,525	49%
STL	564,171	289,707	51%
DTW	981,887	522,641	53%
DFW	1,451,477	813,542	56%
SLC	700,608	413,246	59%
CLT	700,691	467,676	67%
IAD	715,473	502,519	70%
IAH	710,518	521,098	73%
CVG	663,433	515,851	78%

Source: FAA Airport Capacity Benchmark Report 2004; and FAA OPSNET.

2.1.4 Diversion of Connecting Traffic Will Not Decrease ORD's Ability to Act as a Hub

If traffic is shifted to other mid-continent hubs, which will occur even if OMP is completed due to massive delays that will occur, ORD will still have similar size and local/connecting characteristics to other major international gateways. Adjusting the FAA's

¹¹For an explanation of the total costs of the OMP see Campbell-Hill Aviation Group, *A Critical Assessment of the Draft Environmental Impact Statement for the O'Hare Modernization Program (OMP)*, Section 3.0, April 6, 2005.

Comment	Response
81	<p>The fact that American closed its St. Louis hub and increased its hubbing activity at ORD is further evidence that ORD is a vital major hub in American's route system, and that alternative hubs, despite having available capacity, are unlikely to be used to provide the capacity that is needed at ORD. The FAA does not have the power to undo the decision of American Airlines to stop hubbing operations at St. Louis.</p> <p>Perhaps the decision by American Airlines to shift its resources to ORD was based substantially on its proximity to one of the world's largest origin-destination markets, the critical mass of international and connecting services, and to realize cost efficiencies of operation.</p> <p>For further information please see the FAA responses to <i>Section 4.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.</p>

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constrained enplanement forecast so that unconstrained local enplanements are handled at ORD and that the unaccommodated connecting traffic (based on the TAF forecast assumptions) is shifted to other mid-continent hubs would produce a local to connecting ratio of 61:39 in 2018. This ratio is similar to the ratio at six major international gateways today (See Table 1-2).

Table 1-2
International Gateways With Approximately 61% Local Enplanements
(Year Ended June 30, 2004)

Airport	Percent Local/ Percent Connecting Enplanements
LAX	64% / 36%
JFK	66% / 34%
SFO	66% / 34%
IAD	67% / 33%
PHL	67% / 33%
EWR	73% / 27%

Source: U.S. DOT, T-100 Data and O&D Data via Data Base Products.

Table 1-2 above clearly illustrates that ORD will be able to operate as a major international gateway, even if substantial connecting traffic shifts to other mid-continent hubs.

2.2 Increased Use of Regional Airports

The FAA's analysis of the potential use of other regional airports on page 1-10 of the 4(f)/6(f) Evaluation fails to consider the reality that airports can grow to accommodate more passengers and that no realistic amount of local O&D traffic shifting would decrease O'Hare's ability to maintain its role as a hub and international gateway.

2.2.1 Potential to Accommodate Growth at Regional Chicago Airports

The FAA's analysis assumes that other regional airports will not be able to accommodate future regional traffic growth. FAA ignored the history of Midway Airport, which demonstrates that traffic can grow rapidly at other regional airports. At the time that Midway Airlines¹² began scheduled service at Midway Airport on November 1, 1979 there were only two round trips per day at Midway, operated by Delta between Midway and St. Louis. Midway Airlines' entire

¹² The first Midway Airlines.

Comment	Response
82	Please see the FAA responses to <i>Section 4.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.
83	The FAA's detailed analysis of the use of other regional airports is included in the EIS, see Chapter 3 and Appendix C . The Draft Section 4(f) and Section 6(f) Evaluation incorporates the EIS alternatives analysis by reference.

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83

strategic plan was to be a hub and spoke airline centered at Midway Airport. Over the years it grew its route structure by adding spokes to the east, to the west, and to the south with schedules designed to optimize connections and maximize the flow of passengers over Midway Airport.

In the mid-1980's Southwest Airlines entered Midway and expanded the airport's operations rapidly. With its recent (2005) purchase of six additional gates from ATA, Southwest now has 25 gates at Midway and its scheduled operations will soon reach a level of 200 daily departures. Southwest serves O&D markets in all directions to/from Midway, except for Canada and Mexico.

For the year ended June 30, 2004, Midway Airport (with only two air carrier runways) recorded 6.3 million outbound local O&D passengers which was 46% as much as O'Hare. Another 2.0 million Midway enplanements were connecting passengers. Clearly Midway Airport's air carrier traffic has grown from nothing, at the height of recession and extremely high fuel costs and interest rates in late 1979, to a fully developed air carrier airport serving a very large segment of Chicago's local O&D market, as well as a significant volume of connecting passengers.

Although Midway is currently close to capacity, its history shows that airports can grow around O'Hare to accommodate regional O&D. Milwaukee is well positioned to penetrate further the greater Chicagoland market, especially to the north of the City. Gary could penetrate the downtown and southeastern markets. Rockford could attract some of the western Chicago market, and South Suburban can penetrate all of Chicago assuming rapid access is available.

2.2.2 O&D Traffic Diversion Will Not Affect ORD's Hub Status

Page 1-10 of the FAA's 4(f)/6(f) Evaluation states that..."the continued role of O'Hare as a major national connecting hub and international gateway is dependent on the airline service of local origin-destination demand at O'Hare, so there is a limit to the amount of local demand that could be diverted while still maintaining the roles of O'Hare as a hub and gateway."¹³ While market forces might result in shifting some local O&D passengers to other regional airports in the face of delay constraints (which constraints will exist under both Phase 1 and the full OMP), the amount of O&D shifting would not diminish O'Hare's ability to maintain its role as a hub and international gateway. Most of the traffic shifting will be connecting passengers. United and

¹³ FAA, Draft Section 4(f) and Section 6(f) Evaluation: Chicago O'Hare International Airport, page 1-10, May 2005.

Comment	Response
84	The comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. As noted, the FAA has separately responded to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-501. Specifically, <i>Section 4.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581. Specifically, please see response to comments 121-128 of that document beginning on page U.4-582.

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American have been on record saying that... "Local passengers have the priority."¹⁴ Therefore, in the face of constraints, including constraints that will exist even after OMP is built, the airlines will react to shift mostly connecting traffic to other airports.

3.0 The FAA Failed to Analyze Correctly the Critical Role of Congestion Management

3.1 The FAA Excluded Analyzing the Effect of Higher Airport Costs on Passenger Demand

A primary flaw in the FAA's analysis is its dismissal of the use of congestion management as an alternative while neglecting to perform any analysis on the decrease in passengers that would result from building the OMP. It repeatedly makes statements similar to... "The FAA's preferred approach to reducing delay and congestion is to increase airport infrastructure so that capacity meets demand."¹⁵ when it argues that congestion management is not a preferred alternative. This is absurd, illogical and lacks objectivity. It ignores the fact that airports have finite capability to add airport capacity due to the size of the airport's footprint and airspace congestion. Due to O'Hare's size and airspace congestion, adding runways will not materially increase capacity and certainly the OMP plan would in fact exacerbate O'Hare's delay problems. Campbell-Hill has shown that OMP will not materially increase capacity at O'Hare and will not reduce delays—indeed delays will be as high if not higher than historic levels.

In addition, the demand figures that the FAA uses do not include the passenger reductions created by the exorbitant costs of the OMP. A more correct approach would be to analyze all alternatives to see which one maximizes the number of regional passengers accommodated at a reasonable total cost.

Campbell-Hill's DEIS Comments¹⁶ demonstrated the effects of the cost-related passenger reduction of the OMP. If the OMP is built the cost per enplaned passenger would increase by at least \$20 dollars. This cost would be passed on to the passengers in the form of a fare increase. This fare increase would decrease passengers, due to the fact that passenger demand is elastic relative to price. With fewer passengers and the same costs, the cost per passenger would increase. This would increase fares further, and then decrease demand again. The "death spiral"

¹⁴ United Airlines and American Airlines, Letter to Laurie Stone, January 22, 1996.

¹⁵ FAA, Draft Section 4(f) and Section 6(f) Evaluation, Chicago O'Hare International Airport, page 1-19, May 2005.

¹⁶ Campbell-Hill Aviation Group, A Critical Assessment of the Draft Environmental Impact Statement for the O'Hare Modernization Program (OMP), Section 3.0, April 6, 2005.

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Comment	Response
85	<p>FAA believes that provision of adequate capacity at ORD is critical to providing for the ORD hub. Airlines decide where to operate hubs, and the airlines operating hubs at ORD (American and United) have indicated that additional capacity is needed at ORD.</p> <p>Further, the stated purpose and need for the project includes accommodating all unconstrained demand—including both originating and connecting passengers. The analysis presented in the EIS provides conclusive evidence that the proposed action is required to accommodate unconstrained demand at ORD.</p> <p>For further information, please see the FAA responses to <i>Section 4.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-581.</p>

would continue until a new equilibrium is met. Campbell-Hill estimates that OMP costs would reduce enplanements by 4.5 million, or 10% in 2013, the year OMP would open.¹⁷

3.2 The FAA Did Not Accurately Portray Passenger Capacity At ORD With Congestion Management

Although, the FAA states that...“there is likely to be potential to provide incentives for the use of larger aircraft and thereby accommodate more passenger demand with fewer aircraft operations” on page 1-11 of its 4(f)/6(f) Evaluation, it does not portray accurately the likely passenger demand that can be handled at ORD with a small increase in aircraft size. The congestion management techniques that are in effect at ORD will likely lead to increases in aircraft size beyond the trend assumed in the TAF. The FAA also discussed the fact that airlines will likely use larger aircraft at ORD in its Preliminary Regulatory Evaluation, Initial Regulatory Flexibility Determination, Trade Impact Assessment and Unfunded Mandates Assessment for the proposed congestion management measures at ORD when it stated “FAA expects that given fewer O'Hare flights and less flexibility, air carriers would need to adjust their operational parameters such as **aircraft size**. ...”(emphasis added)¹⁸

If the average aircraft size increases to the 1998 average of 127 seats, and the recent United and American load factor is maintained¹⁹, then the unconstrained 2002 TAF forecast of passengers can be accommodated through 2013 with ORD as it is today. This “No Action” case that incorporates current load factors and rational airline decisions to use larger aircraft when capacity is limited is more realistic than the unrealistic and unreasonable “No Action” case used by the FAA in both its 4(f)/6(f) Evaluation and its DEIS.

3.3 Using Congestion Management As Part of A Blended Alternative Is Preferable To Building the OMP

Chart 1-1 below shows that ORD will actually be able to accommodate more passengers than it would if the OMP is built because the large costs of the OMP will decrease the number of ORD passengers substantially. In fact, in 2013 demand management will allow ORD to have

¹⁷ Campbell-Hill used the elasticity coefficient of -1.2 from FAA, *FAA Airport Benefit-Cost Analysis Guidance*, page C-8, December 1999.

¹⁸ FAA, *Preliminary Regulatory Evaluation, Initial Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment for the Notice of Proposed Rulemaking: Congestion and Delay Reduction at Chicago's O'Hare International Airport*, page 41, March 1, 2005.

¹⁹ United and American's combined load factor for the year ended September 30, 2004 was 77.7%.

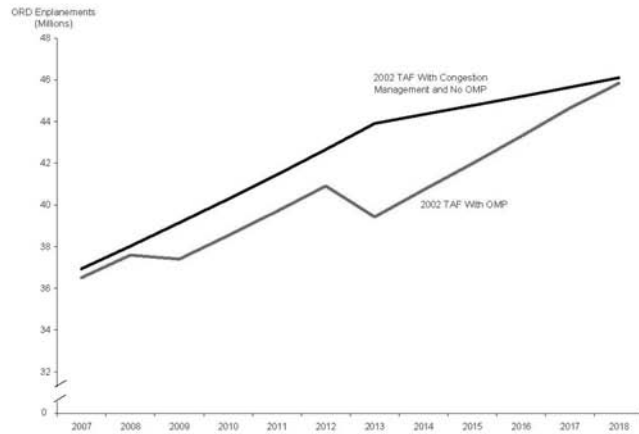
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Comment	Response
86	This comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, specifically <i>Campbell-Hill Section 3.0</i> . For FAA's response, please see the FAA responses to <i>Section 3.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-558.
87	This comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, specifically <i>Campbell-Hill Section 4.3</i> . For FAA's response, please see the FAA responses to <i>Section 4.3 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-586. The FAA directs the commenter to response to comments 133-135, beginning on page U.4-590.

4.5 million more enplanements (11%) than if the OMP is built. Even in 2018, more passengers will go to O'Hare if congestion management is used than if the OMP is built.

Chart 1-1
ORD Will Be Able To Accommodate More Passengers Using Congestion Management
Than If It Built the OMP



Source: Campbell-Hill Aviation Group, A Critical Assessment of the Draft Environmental Impact Statement for the O'Hare Modernization Program (OMP), Exhibit 405, April 6, 2005.

88

Comment	Response
88	This comment is based on <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, specifically <i>Campbell-Hill Section 4.3</i> . For FAA's response, please see the FAA responses to <i>Sections 4.3 and 4.4 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-586. The FAA directs the commenter to response to comments 133-135, beginning on page U.4-590.

4.0 Without Any Detailed Analysis the FAA Dismissed the Blended Alternative

The FAA rejected the blended alternative because it says it has no authority to influence airlines to use alternative airports. As discussed above in Section 1.1.1.2 the FAA has authority and has for years exercised such authority (by disapproving AIP grant applications, but implementing congestion management mechanisms) which will influence airline strategic decisions. The FAA also fails to include the accommodation of connecting passengers at other mid-continent airports as a component of the blended solution.

As shown above, the most reasonable solution can be achieved by combining FAA congestion management techniques, such as operational limitations, with airline decision to use larger aircraft in a congested airport such as O'Hare. The following quotation from the letter by United American discussed above implies that airlines can perform actions that increase the passengers accommodated at busy airports... "Capacity at a hub airport is defined in terms of available aircraft seats, not flights. The myth that Chicago airports are nearing capacity has been proffered by uninformed individuals who lack a basic understanding of the aviation industry's economics and operational methods. Blind acceptance of their definition of airport capacity can be very costly and will cause mortal damage to Illinois' economy."²⁰ Congestion management would allow Chicago to accommodate more passengers and would cost much less than the \$21 billion OMP.

The summary dismissal of a blended alternative for ORD contrasts sharply with FAA's reasonable and opposite approach for the expansion of LAX. With respect to LAX the FAA accepted the very kinds of blended alternatives it rejects here. Significant differences between FAA's actions here and with respect to LAX include:

- A true regional approach was used including projection of an optimized role for LAX within a regional airport system (i.e., the primary hub and gateway supported by regional reliever airports).
- The preferred alternative will result in limited growth in operations and traffic at LAX; the goal was not solely to achieve unconstrained growth, but rather to make optimal use of LAX's existing infrastructure with support from other airports. In fact, the projected traffic forecast for LAX will result in 19 million passengers from the unconstrained forecast being accommodated elsewhere in the region.
- Average delay reductions were measured in the context of project costs and other impacts; the preferred alternative is projected to generate average delays that are reasonable but higher than other more costly alternatives.
- Although the analysis did not study the development of regional airports, the regional plan to do so was considered in shaping the final alternative. In this case, the FAA

²⁰ United Airlines and American Airlines, *Letter to Laurie Stone*, January 22, 1996.

did not ignore obvious trends and behavior patterns just because they did not have the jurisdiction to influence them. In fact, the entire analysis is premised on airlines making rational use of constrained operations at LAX including a focus on local origin/destination and international traffic.

- The alternative development process encouraged and incorporated public comments and, in fact, the final blended "No Build" alternative was generated from the local comments and reflected a regional policy to design an optimized use of all regional airports.
- The analysis deals directly with safety issues and the impact and capacity of related infrastructure (e.g., roadways), as well as addressing impacts during the construction period.

In conclusion, the FAA based its LAX decision on achieving the best regional approach and focusing on LAX's role in the context of regional needs, rather than fixating on maximizing aircraft operations, maximizing costs and maximizing destruction and disruption as was done for ORD. The FAA's wholesale rejection of all other viable alternatives in favor of the City of Chicago's preferred option does not withstand critical scrutiny.

5.0 Conclusion

The FAA failed to properly consider and evaluate prudent and feasible alternatives and such failure undermines the validity of its 4(f)/6(f) evaluation.

Comment	Response
89	<p>The FAA thoroughly evaluated a blended alternative within the Draft EIS. This evaluation is contained in Chapter 3 and Appendix E of the EIS.</p> <p>With regard to the LAX Record of Decision, the FAA refers the commenter to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, specifically response to comment 138 beginning on page U.4-595.</p>
90	The FAA disagrees with the comment.

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050705_02

July 5, 2005

Mr. Mike MacMullen
Federal Aviation Administration
2300 East Devon Avenue
Des Plaines, Illinois 60018

Dear Mr. MacMullen:

The following are comments on the Draft O'Hare Modernization Section 303/4(f) and Section 6(f) Evaluation.

It does not appear that the FAA has completed their evaluation of the impacts to recreation/park land and historic properties in accordance with current legislation. Use of park land or land of historic significance is to be used only if there is no feasible alternative and if the project includes planning to minimize harm to local residents.

It appears that the FAA has all too easily dismissed all of the alternatives presented by the authorities of Bensenville and Elk Grove Village as not being prudent and not warranting further consideration. The alternatives of using other airports and congestion management may well meet the purpose and need given that the forecast of future aviation activity is clearly uncertain, even by the FAA's own admission. United Airlines, one of the major carriers at O'Hare Airport, remains in bankruptcy. It is unclear if United will have the necessary funds to complete the terminal and gate renovations which are typically paid for by the airlines. Some aviation analysts predict the eventual demise of the major airlines such as United, in favor of smaller regional carriers such as Southwest Airlines.

The direct and indirect impacts should be more carefully considered. For example, the worsening traffic conditions are not given adequate consideration. The increased time that it will take to commute in the affected area will have a significant impact on the daily lives of local residents.

Likewise, the FAA determined that there would be no constructive impact on the many sites of local importance, as long as sound insulation is used. However, that does not take into consideration the fact that residents would like to take advantage of their neighborhood parks and other outdoor community resources where sound-proofing is not available.

It is also unclear why the appendices contain correspondence between various parties regarding land acquisition. Presumably the FAA must issue a favorable record of decision before the airport layout plan can be approved and the airport improvements considered eligible for Federal funding. If the FAA has not yet issued a favorable record of decision, it would appear that these negotiations regarding land acquisition are premature and illegal.

Thank you for your time and consideration in this matter.

Sincerely,
/s/

Comment	Response
1	The FAA disagrees with the commenter's assertion that it did not complete the required evaluation in "accordance with current legislation." Both Chapter 3 of the EIS and the Section 4(f) and 6(f) Evaluation itself contain a substantial discussion of alternatives, their impacts, and if they might avoid or result in lesser impacts on the resources at issue. FAA has in fact conducted a thorough evaluation of alternatives. Further, alternatives beyond those analyzed in the Draft EIS were also taken into consideration as a part of the Draft Section 4(f) and 6(f) Evaluation. Finally, the FAA has also developed and considered variations of the alternatives that would potentially avoid these resources at issue.
2	The FAA has included a further evaluation of the proposals brought forward by the authorities of Bensenville and Elk Grove Village. This evaluation is contained in Chapter 3, Section 3.6 of the EIS. In addition, the FAA notes that the Agency carefully examined the potential loss of a hubbing carrier at O'Hare in Appendix R of the EIS.
3	The FAA in its EIS gave full attention to the direct and indirect impacts associated with the O'Hare Modernization, including those impacts associated with surface transportation impacts. See Section 5.3 of Chapter 5 and Chapter 7 of the EIS for further information.
4	FAA acknowledges that area residents are likely to continue using the recreational facilities in the project area, even when those facilities cannot be soundproofed. In recognition of this circumstance, the Section 4(f) and 6(f) Evaluation includes an analysis of potential impacts associated with noise. FAA's land use compatibility guidelines were used to determine acceptable noise levels over the Section 4(f) lands identified in the Section 4(f) and 6(f) Evaluation. These guidelines generally identify three thresholds of noise levels (65, 70, and 75 DNL, with some provisions for higher levels if structures, such as an incompatible use: auditoriums, or museums can be soundproofed) applicable to parks/recreational resources and historic sites, depending on the types of activities that occur at the site. See Table L-6 of the Final Section 4(f) and 6(f) Evaluation for further information on the predicted sound levels at each of the Section 4(f) resources in comparison to the FAA's land use compatibility guidelines. Specifically, parks are normally considered compatible up to sound levels of 75 DNL. Based on the analysis presented in the Evaluation, no substantial impairment or constructive use impacts on Section 4(f) or Section 6(f) resources are anticipated as a result of the proposed project.
5	Please see the following page for the response to this comment.

Susan Kuffel
15 Essex Road
Elk Grove Village, IL 60007

Comment	Response
5	FAA agrees that a favorable record of decision is a prerequisite for ALP approval or funding eligibility. FAA notes the commenter's opinion regarding negotiations for land acquisition. While, the FAA was not a party to any negotiations for acquisition of property by the City of Chicago related to the O'Hare Modernization, the FAA did enter into discussions with the Bensenville Park District and other public entities for the purpose of evaluating potential project impacts and identifying potential mitigation measures.

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CONGRESSMAN HYDE

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050705_03

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Washington, DC 20515-1306

July 5, 2005

Ms. Cecelia L. Hunziker
Regional Administrator
Great Lakes Region
Federal Aviation Administration
2300 East Devon Avenue
Des Plaines, Illinois 60018

Mr. Michael MacMullen
Airports Environmental Program Manager
Federal Aviation Administration
Chicago Airports District Office
2300 East Devon Avenue
Des Plaines, Illinois 60018

Re: FAA evaluation of Section 4(f)/6(f)
properties and other FAA actions relating
to Chicago's OMP and Phase One
proposals

Dear Ms Hunziker and Mr. MacMullen:

I have previously submitted comments (my letter of April 6, 2005) and a Preliminary Statement (February 22, 2005) regarding FAA's Draft Environmental Impact Statement (DEIS) relating to Chicago's proposed OMP and related Phase One. In this letter I am addressing FAA's *Draft Section 4(f) and section 6(f) Evaluation For The O'Hare Modernization Program*. In this letter, I also briefly address certain outstanding issues relating to proposed FAA actions, i.e., 1) outstanding issues as to Phase One, 2) issues as to AIP funding for Phase One and the full build OMP-Master Plan, 3) issues as to PFC funding authorizations for Phase One and the full build OMP-Master Plan, 4) issues as to O'Hare Tower air traffic controllers' concerns about Phase One and alternatives to Phase One, and 5) issues as to FAA's continued refusal to comply with the requirements of the federal Religious Freedom Restoration Act in all of its actions regarding OMP.

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L Problems with Phase One

There appear to be several serious problems with Phase One of the OMP.

A. Cost and Financing Problems With Phase One

Lima Lima. First, as the Chicago Tribune reported on June 20, 2005 Chicago's stated \$2.9 billion cost estimate for Phase One (and its related financing plan and airport layout plan) neglected to inform the public that Chicago has eliminated a key taxiway (Lima Lima) from Phase One. The Tribune article states that the cost of Lima Lima exceeds \$200 million and Chicago has not presented to FAA and the public the financial plan to pay for the cost of Lima Lima and the remainder of Phase One.

The same Tribune article indicates that the airlines have refused to provide airline financing for Lima Lima — leaving Phase One with a more than \$200 million funding gap.

Benefit-Cost Legerdemain. The Phase One financing problems don't stop with Lima Lima. To pay for the remaining cost of Phase One, Chicago seeks \$300 million in discretionary federal AIP funds and over \$1 billion in federal PFC funding authorization. While the PFC application has its own serious problems relating to inability to meet the statutory requirements for \$4.50 PFC authorization, what is patently clear if Chicago's inability to demonstrate the fundamental requirement for AIP discretionary funding that the project benefits exceed the costs.

Chicago has sought \$300 million in AIP funds on the claim that for every dollar of Phase One cost, there will be \$2.13 in delay savings benefits. Chicago based this delay savings claim on a prediction of the future facts that Chicago and the FAA have themselves stated to be untrue.

Chicago's delay benefits claim is based on the presumption that traffic under Phase One (and indeed under the full build OMP-Master Plan) will never exceed 974,000 operations — the level of traffic at which FAA says traffic at the existing airport will cease growing. Chicago compared the delay that would be experienced at the existing airport at 974,000 operations and the delay that would be experienced under Phase One at 974,000 operations — and then, like the sorcerer's apprentice — marched this delay differential (based on an assumed constant limit of 974,000 operations) twenty years forward to the year 2028, without any growth in operations under Phase One.

In reality, FAA's and Chicago's own forecasts state that traffic (and delays associated with that traffic) will grow quickly beyond 974,000 operations so that shortly after Phase One opens, the delays will rise to the same levels of delay experienced at the existing airport. This rise in traffic and delays — coupled with the increased taxi times (and associated delay) involved in Phase One — means that the delay savings benefits attributed by Chicago to support its benefit-cost claims (and associated application for \$300 million in AIP funds) disappear shortly after Phase One opens. Indeed, for most of the 20 year economic life used for benefit-cost analysis for Phase One (2007-2028) the delay costs (i.e., number of operations X minutes of delay) under Phase One far exceed those of the existing airport.

Comment	Response
1	<p>In response to this request and others, the FAA has reviewed additional cost information related to the City's proposed O'Hare Modernization Program (OMP). This additional cost information provided by the City has been posted to the FAA's website, http://www.agl.faa.gov/OMP/.</p> <p>As discussed in Section 1.7 of Chapter 1 of the Final EIS, the FAA has concluded that the City's cost estimates are reasonable for the purposes of the National Environmental Policy Act (NEPA).</p>

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The consequence of this deliberate overstating of benefits (*i.e.*, marching the delay savings at 974,000 fixed operations in lockstep to the year 2028) is that Chicago's delay savings benefits are grossly inflated. When FAA's and Chicago's own forecasts of delays and traffic increases are used in the analysis, the so-called "delay savings benefits" are far outweighed by the costs of Phase One. For very dollar of Phase One cost, the delay savings benefits are less than a penny! Given that reality, FAA is prohibited by statute from giving Chicago its requested \$300 million AIP grant for Phase One¹.

House of Cards or Dominoes. The Lima Lima \$200 million gap and the \$300 million AIP gap have cascading consequences. Without the \$500 million represented by these two sources, Chicago will be ineligible for the requested \$1 billion PFC authorization under the applicable PFC statute because the non-PFC funding of the project is not assured. Without either one of: a) the Lima Lima funding shortfall, b) the AIP \$300 million shortfall, or c) the \$1 billion PFC shortfall, the Majority in Interest Airlines commitment to pay their share of the Phase One project falls apart because their commitment is based on Chicago's assurances that the remainder of the Phase One financing is assured.

B. Performance Problems With Phase One.

O'Hare Tower Controllers' Concerns. Financing problems are the least of Phase One's woes. The O'Hare Tower controllers have now twice spoken out forcefully to the public media about their concerns that Phase One raises major operational, safety, and delay problems. I have enclosed the transcripts of two NBC Ch. 5 news stories on the controllers' concerns.

Huge Bad Weather Delays Under Phase One. Moreover, the controllers' concerns are buttressed by the very own delay figures presented by FAA and Chicago as a result of TAAMs modeling done for the OMP and Phase One. As Administrator Blakey has emphasized, one of the key "problems"² at O'Hare is the discrepancy between good weather throughput and bad weather throughput — a discrepancy created by the added use of a converging arrival runway in good weather that cannot be used in bad weather. Yet FAA's and Chicago's modeling of Phase One shows that there will be massive bad weather delays under Phase One, shortly after it opens (*e.g.*, over 90 minutes average IFR delay under a key IFR configuration).

The Full Build OMP-Master Plan Is An Illusion. From every common sense and factual perspective, it increasingly appears (as I pointed out in my April 6th letter) that the full build OMP-Master Plan is an illusion that will never be built. At a cost of over 14 billion dollars (a low-ball estimate never substantiated by the FAA; others have estimated a cost higher than \$20 billion), the full build OMP-Master Plan is, in the

¹ The same benefit-cost problems afflict the full build OMP-Master Plan. There is no way that the full build OMP-Master Plan can pass the benefit-cost requirement given the huge costs of that project.

² I put "problems" in quotes because it is widely recognized that much of the so-called delay "problem" at O'Hare is due to intentional over-scheduling by the major airlines using O'Hare, essentially a self-inflicted problem that can be substantially eliminated by the stroke of a pen, *i.e.*, through FAA's exercise of its congestion management authority.

Comment	Response
2	<p>With respect to the benefit-cost analysis, the FAA is evaluating the City of Chicago's benefit cost analysis through the ongoing review of the City of Chicago's Letter of Intent Application, submitted to the FAA in February 2005. A decision to fund the proposed action and at what level will be determined through this process outside of this EIS.</p> <p>In addition, the PFC and AIP processes are separate and distinct from the NEPA process. The PFC approval of impose and use is a separate process with its own consultation and comment process pursuant to 14 CFR Part 158.</p>
3	<p>The FAA addresses this comment in response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. Specifically, please see the FAA responses to <i>Section 3.3.2 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-586. The FAA directs the commenter to response to comments 105-109, beginning on page U.4-568.</p>
4	<p>In response to this comment and others, the FAA has evaluated two alternatives with a single south runway. This evaluation is contained in Chapter 3, Section 3.6 of the Final EIS. Please see this section of the EIS, where FAA has evaluated the two alternatives, which FAA refers to as: (1) Derivative M – No Action with a New South Runway only (4300' south from existing Runway 9R/27L); and (2) Derivative N - No Action with a New South Runway only (5000' south from existing Runway 9R/27L).</p>
5	<p>FAA did evaluate OMP Phase I as a stand-alone alternative; in the EIS it is referred to as Alternative B. Notably, Alternative B performs considerably better than the No Action Alternative (or existing airfield). As demonstrated in the Section 3.2.2.1 of Chapter 3 of the EIS, Alternative B did not satisfy purpose and need, thereby ratifying the FAA's decision not to perform further analysis of Alternative B.</p> <p>While OMP Phase I (Alternative B) would not meet the purpose and need stated in the EIS, OMP Phase I is an essential step in developing the full-build OMP (Alternative C) which, using the forecast adopted by FAA, provides for accommodation of unconstrained forecast demand during the period through 2018.</p>

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parlance of the dot-com craze of the late 1990s, simply "vaporware" — put forward by Chicago as a public relations initiative to create the appearance of addressing the region's aviation needs. The airlines refuse to commit to the funding of the more than \$8 billion that FAA says is their share (through General Airport Revenue Bonds) and these same airlines have refused to give their lease approval (the so-called Majority In Interest (MII) approval to the major terminal components of the full build OMP-Master Plan (according to the Chicago Tribune, the MII airlines turned down Chicago's request to approve the multi-billion dollar World Gateway Program (WGP) terminal components of the full build OMP-Master Plan. These financial problems are coupled with the fact that the full build OMP-Master Plan fails any rational benefit-cost test and thus will — for the reasons stated for Phase One above— not be eligible for discretionary AIP funding and PFC authorization.

Since OMP is an illusion, a chimera³, FAA should focus on whether Phase One — as compared to some other alternative such as the one put forward by the O'Hare traffic controllers or the other blended alternatives suggested by others— is a better response to O'Hare's and the region's aviation needs.

C. Religious Freedom Restoration Act Problems With Phase One.

I and others have repeatedly implored FAA to enforce and comply with the federal Religious Freedom Restoration Act with regard to its various decisions as to Phase One and the remainder of the OMP. There is no question that both the full build OMP-Master Plan and Phase One itself call for the destruction of two religious cemeteries. Nor is there any question that destruction of these religious cemeteries will cause injury and harm (i.e., a "substantial burden" within the meaning of RFRA and related religious freedom judicial precedent) to the religious beliefs and practices of the Religious Objectors whose families and loved ones are interred in the sacred consecrated ground of those religious cemeteries.

Under federal RFRA, FAA has a strict obligation to affirmatively demonstrate that: a) the destruction of the religious cemeteries is necessary to meet a compelling governmental need, and b) there are no other alternatives to accomplish the governmental need without destroying the religious cemeteries.

Moreover, FAA cannot meet this obligation by some administrative fiat such as the *ipse dixit* statements FAA has made that "blended alternatives" (which include demand management and the use of other airports, alternatives in widespread use throughout the country today, see discussion, *infra*) are not available and feasible. The federal RFRA statute requires the FAA to make the required demonstration in a judicial proceeding (i.e., in an Article III court) before FAA can take any action (e.g., AIP funding decisions, ALP approval, PFC authorizations).

Nor is federal RFRA the only religious freedom protection applicable to FAA's actions here. By singling out these two religious cemeteries to be stripped of their

³ "something totally unrealistic or impractical; a figment of the imagination, for example, a wildly unrealistic idea or hope or a completely impractical plan." (Encarta® World English Dictionary [North American Edition].

Comment	Response
6	<p>The FAA has responded to the Congressman's April 6, 2005 letter regarding the Draft EIS. This letter and its responses can be found in Section U.2 of Appendix U of the EIS, see pages U.2-29 through U.2-45.</p> <p>With regard to the Master Plan cost estimate, the FAA notes that the FAA has concluded that the City's cost estimates are reasonable for the purposes of the National Environmental Policy Act (NEPA), see Section 1.7 of Chapter 1.</p> <p>With regard to the MII approval, the FAA addresses this comment in response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. Specifically, please see the FAA responses to <i>Section 3.3.1 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning page U.4-566. Specifically, the FAA directs the commenter to response to comment 103, beginning on page U.4-568.</p> <p>With regard to AIP funding and PFC authorization, please see response to comment 2 of this document.</p>
7	Please see response to comment 5.

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protection under the Illinois Religious Freedom Restoration Act— while preserving Illinois RFRA protection for every other religious institution in the State of Illinois, including all other religious cemeteries — Chicago has triggered the application of the First Amendment Free Exercise Guarantee. Chicago is asking FAA to help fund Chicago's destruction of the First Amendment religious rights of the Religious Objectors — asking FAA to provide funds for the violation of the Religious Objectors' constitutional rights.

Finally, it is also clear that the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) is applicable here. Through its request that FAA approve its proposed Airport Layout Plan, Chicago is asking FAA to approve a change in the land use currently being used by the Religious Objectors (*i.e.*, for religious cemeteries) to a land use approved by the FAA (*i.e.*, for airport uses). Under RLUIPA, Chicago must make a similar demonstration that: a) the destruction of the religious cemeteries is necessary to meet a compelling governmental need, and b) there are no other alternatives to accomplish the governmental need without destroying the religious cemeteries. Again, the required RLUIPA demonstration must be made in a judicial proceeding (*i.e.*, and Article III court) and cannot be made by administrative fiat by the FAA.

I keep coming back to FAA's obligations under various religious freedom laws because — despite almost three years of requests by the Religious Objectors and me— FAA continues to ignore these clear legal obligations. It would be bad enough — and clearly illegal— if FAA chose to ignore these religious legal rights on the ground that Phase One represented and fulfilled some critical governmental need. But the evidence is overwhelming that Phase One will cause huge problems with congestion and delay. The evidence is equally overwhelming that there are numerous other alternatives— including the alternatives suggested by the O'Hare Tower controllers and the other blended alternatives suggested by the Religious Objectors— that would provide better air traffic results than Phase One while avoiding the destruction of the religious cemeteries.

I urge FAA to halt its precipitous and destructive toward approving Phase One and to engage in a thorough investigation and implementation of these less destructive alternatives.

II. Alternatives

FAA's Authority and Power To Implement Blended Alternatives. FAA continues to argue — without any support or justification — that FAA does not have the power or legal authority to impose "blended alternatives". On the contrary, there are numerous examples around the country where FAA is using blended alternatives, *i.e.*, a combination of the existing airport in conjunction with demand management and the use of other airports to handle excess demand.

Indeed, FAA is currently using just such a blended alternative at O'Hare, combining its August 2004 scheduling order with use of other airports to: a) control delays at O'Hare and b) accommodate air traffic demand. Further, FAA used a similar blended alternative in conjunction with use of other airports to accommodate demand at

Comment	Response
8	In response to this comment and others, the FAA has added Section 5.22 to Chapter 5 of the EIS for the FAA's discussion of legal issues involving potential relocation of St. Johannes and Rest Haven Cemeteries.
9	<p>The FAA evaluated a blended alternative in the EIS, see Chapter 3 and Appendix E. This alternative was eliminated in the secondary screening of alternatives. The rationale for elimination is contained in Chapter 3, Section 3.3.2.6. The FAA notes that, even if the blended alternative were implemented, it would yield the least delay reduction, of those alternatives considered in secondary screening, while not serving the forecast demand.</p> <p>With regard to the LAX Record of Decision, the FAA refers the commenter to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS, specifically response to comment 138 beginning on page U.4-595.</p> <p>Notwithstanding the commenter's assertions regarding FAA's authority, the FAA notes that in the EIS for the Runway 17-35 Extension Project at Philadelphia the Agency stated, "As a matter of policy, [the Office of the Secretary of Transportation] and FAA disfavor administrative approaches to demand management as an artificial constraint on the demand for air transportation. For example, such approaches bar air carriers from offering air travelers as much service as they would like. Administrative approaches should only be employed where absolutely necessary and as an interim, stop-gap measure, until an acceptable solution to delay can be implemented. Accordingly, it remains the FAA's position that administrative rules that cap operations may be suitable interim actions where improvements are physically impractical, or not yet implemented."</p>

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O'Hare, LaGuardia, Newark and Reagan National throughout the multi-decade operation of the High Density Rule (HDR).

FAA is also currently using a current version of demand management at LaGuardia. Further, FAA has just approved a blended alternative structure for the Los Angeles metropolitan area in FAA's 2005 approval of the LAX Master Plan — which calls for a limited growth of LAX to that which does not exceed the capacity of the current LAX while sending excess traffic to other local airports.

In short, the central argument made by FAA to support its rejection of blended alternatives is FAA's *ipse dixit* ("its so because we say its so") statement that FAA has no legal authority to implement a blended alternative. That bald, unsupported claim by FAA is simply untrue and is contradicted by FAA's own actions. FAA can control traffic growth at any airport and cause the shifting of excess traffic (*i.e.*, traffic that cannot be satisfied at the base airport) by either its funding decisions (discouraging expansion in favor of blended alternatives) or its regulatory demand management alternatives.

Finally, FAA must explore blended alternatives because Phase One will reach high congestion levels shortly after it opens in 2007 (2009 for full Phase One). Since full build OMP-Master Plan is a financial chimera, Phase One is what Chicago will be living with and Phase One will require the use of a blended alternative (*i.e.*, demand management and the use of other airports to handle excess demand) shortly after it opens.

Indeed, even the full build OMP-Master Plan — assuming the major airlines and FAA were foolish enough and had the billions necessary to fund it — will suffer from serious delays and congestion shortly after it opens. If FAA had used the more current 2003 or 2004 Terminal Area Forecast (TAF) — instead of the low-ball 2002 TAF — and used the more realistic standards of acceptable delay set forth in other FAA and DOT publications, it would be readily apparent that the full build OMP-Master Plan will run out of capacity and suffer from major delays shortly after it opens. This major capacity shortfall and delay problem with the full build OMP-Master Plan stems from the fact that the runways in the full build OMP-Master Plan are too close together, creating a major discrepancy between good weather throughput and bad weather throughput. Thus, even the full build OMP-Master Plan would require a blended alternative of congestion management controls and use of other airports to service excess demand.

The Controller's Alternative. According to media reports, the O'Hare Tower controllers have expressed severe reservations about Phase One and have put forward their own alternative which would consist of a single southern runway. They say this alternative would perform far better than Phase One.

FAA's only basis for rejection of a full exploration of this (and other) alternatives is FAA's rigid mantra that FAA does not have authority to implement blended alternatives, *i.e.*, a combination of the controllers' proposal and congestion management in conjunction with the use of other airports. For the reasons I have stated above, FAA's categorical refusal to explore and implement blended alternatives — on the basis of FAA's claim that it has not legal authority to implement blended alternatives — is untrue, unsupportable and contradicted by numerous examples of the FAA's own actions.

Comment	Response
9	Please see the response to this comment on the previous page.
10	The FAA addresses this comment in response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. Specifically, please see the FAA responses to <i>Sections 2.0 and 3.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning pages U.4-525 and U.4-558, respectively.
11	<p>The FAA disagrees with this comment. The FAA addresses this comment in response to <i>Campbell-Hill's April 6, 2005</i> comments on the DEIS. Specifically, please see the FAA responses to <i>Sections 2.0 and 3.0 of Campbell-Hill's April 6, 2005</i> comments on the DEIS beginning pages U.4-525 and U.4-558, respectively.</p> <p>With regard to the OMP's runway spacing, the proposed Airport Layout Plan (ALP) and supporting documentation within the <i>Master Plan</i> document that the proposed runway lateral separation distances comply with applicable FAA design criteria to ensure safe operations. Current FAA directives (<i>FAA Order 7110.65</i> and supplements) include provisions for operations on runways with the proposed spacing, and these were utilized in developing the planned operation. The procedures developed are fully compliant with these directives and are effectively utilized today at ORD. The TAAM simulation modeling conducted for the EIS incorporated these procedures.</p>
12	Please see response to comment 4 on page L-171.
13	<p>The FAA has explored blended alternatives, see response to comment 9 on page L-173. With regard to the controller's proposal, please see response to comment 4 on page L-171.</p> <p>Also, please see Section 3.6 of Chapter 3 of the EIS.</p>

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The Religious Objectors and Communities Objectors Alternatives. The same reasoning requires that FAA's rejection of the blended alternatives offered by the Religious Objectors and the Community Objectors (Bensenville and Elk Grove Village) must also be reversed. FAA explicitly acknowledges in its Draft 4(f) evaluation that the "L Related Alternatives" are "potentially feasible" (Draft Evaluation at 1-23). The only reason why FAA was able to reject the "L Related Alternatives" (as well as Alternatives H-K) was that FAA continues to rely upon its unsupported and untrue claim that FAA has no power to implement blended alternatives.

The Base Case For Alternative Analysis. Throughout FAA's DEIS and §4(f) Draft Evaluation, and throughout Chicago's LOI application Benefit-Cost submittal in support of Chicago's AIP application, the assumption is made that the existing O'Hare is allowed to grow and operate at close to 15 minutes Average Annual All Weather Delay (AAAW). In the DEIS, FAA suggests that this level of delay is the delay level that existed in 2003. Similarly, in the Chicago Benefit-Cost analysis, Chicago points to FAA's OPSNET data to claim that O'Hare is the most delayed airport in the country based on 2003 data and cites a statistic of 152.6 flights per 1,000 in November 2003 as evidence of these unacceptable delays. (Chicago LOI Application at II-13)

Yet this central premise throughout the DEIS, the Draft Evaluation and Chicago LOI application are all based on conditions that occurred prior to the implementation August 2004 scheduling order which, according to OPSNET statistics, shows a dramatic reduction in delays at O'Hare— when comparing late 2004-2005 data with the peak periods of 2003.

It is obvious from the comments and Federal Register discussion on the March 25, 2005 NPRM that the high delay conditions in 2003-2004 were based on a dramatic increase in over-scheduling of additional flights by United and American. Once FAA installed congestion management controls, delays dropped dramatically.

The Base Case of the existing airport (which is the case against which all alternatives are evaluated) should include the demand management controls and use of other airports which are the elements of the August 2004 scheduling order and the March 25, 2005 NPRM.

Conclusion

In conclusion, let me reiterate several points in this letter and my earlier correspondence. First, the questions I posed in my April 6, 2005 letter relating to FAA's enforcement of and compliance with the Religious Freedom Restoration Act remain unanswered⁴. The FAA's DEIS and Draft Evaluation of 4(f) and 6(f) properties ignore the central religious freedom laws which protect the religious cemeteries.

⁴ I closed my April 6, 2005 letter with the following request: "I am particularly anxious to receive FAA's responses to my questions on the protection of the Religious Freedom rights of the Religious Objectors. Please get back to me promptly with answers to the religious freedom questions as well as my other questions." FAA has declined to answer my questions as well as similar questions asked over the past two years by the Religious Objectors.

Comment	Response
14	In response to the "Religious Objectors and Communities Objectors Alternatives," the FAA has evaluated their proposals in a new Section 3.6 in Chapter 3 . The purpose of Section 3.6 is to evaluate the commenter developed derivatives in relation to the FAA's screening criteria utilized in the EIS.
15	According to FAA's ASPM data, for the calendar year 2004, O'Hare yielded an annual average delay of approximately 18 minutes, even with the FAA Order Limiting Scheduled Operations in place starting in March 2004. In addition, as noted in response to comment 9, administrative approaches should only be employed where absolutely necessary and as an interim, stop-gap measure, until an acceptable solution to delay can be implemented.
16	Please see response to comment 15.
17	Appendix B, Section B.2.2 articulates the reasons for the use of FAA's 2002 Terminal Area Forecast for the EIS analysis. In addition, Appendix R of the EIS includes consideration of a forecast range that encompasses both the 2003 and 2004 Terminal Area forecasts. In calendar year 2004, O'Hare served approximately 990,000 operations at approximately 18 minutes of average annual delay. The FAA notes that the constrained forecast, presented in Appendix B , projected approximately 974,000 operations. The TAAM modeling conducted for the EIS estimated approximately 17 minutes of average annual delay for this level of operations. Also, please see response to comment 15.
18	The FAA indicated in the Draft EIS that the Agency would address issues related to religious liberties in its Record of Decision. In response to this comment and others, the FAA has added Section 5.22, Other Issues Relating to Cemetery Acquisition , to the Final EIS.

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Second, both Phase One and the full build OMP-Master Plan have major financial and operational problems. It is unlikely that Chicago — which proudly claims it is using other people's money (FAA and the airlines) to fund both Phase One and full build OMP-Master Plan — can afford assemble the necessary funds for either project. Moreover, the controllers and FAA's own modeling data show that Phase One will be an operational nightmare— leading to huge bad weather delays.

Finally, the central premise behind FAA's summary rejection of the controllers' alternative as well as Alternatives H-L posited by the Religious Objectors and the Community Objectors— *i.e.*, FAA's claim that it does not have the power to implement a "blended alternative" — is simply untrue. FAA has and is implementing blended alternatives throughout the country. Further, both Phase One and the full build OMP-Master Plan will require the use of blended alternatives, *i.e.*, congestion management with the use of other airports to handle excess demand.

Once that false premise is discarded, every blended alternative suggested by the controllers and the Religious Objectors and Community Objectors becomes feasible — since these blended alternatives are each premised on demand management and use of other airports that FAA has used for decades at O'Hare and other airports.

Thank you for your assistance in this matter. I look forward to your reply.

Sincerely yours,


Henry J. Hyde

Comment	Response
19	Please see response to comment 5 on page L-171.
20	Please see the FAA's evaluation of the "controllers' alternatives" as well as commenter proposals H-L in Section 3.6 of Chapter 3.

Comment	Response
1	Comment noted.

**Illinois Department of
Natural Resources**

One Natural Resources Way • Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Joel Brunsvold, Director

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July 8, 2005

Mr. Mike MacMullen
Federal Aviation Administration
2300 East Devon Avenue
Des Plaines, IL 60018

RE: O'Hare Airport Expansion

Dear Mr. MacMullen:

The purpose of this letter is to state in writing that both Greg Akers and myself, of the Grants Division, have reviewed the draft O'Hare Modernization Section 303/4(f) and Section 6(f) Evaluation document and find no problems or corrections. The information pertaining to Bensenville Park District and the impacted park site is correct.

I hope this suffices for your records. I will wait to hear from you or Bensenville Park District as the process begins to move forward.

Sincerely,

Jan Nation, Grant Administrator
Division of Grant Administration

jn

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Village of Arlington Heights

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Arlene J. Mulder
Mayor

July 28, 2005

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Mr. Mike MacMullen
Federal Aviation Administration
2300 East Devon Avenue
Des Plaines, IL 60018

Dear Mr. MacMullen:

This letter pertains to the Draft O'Hare Modernization Sections 303/4(f) and Section 6(f).

The Village of Arlington Heights believes that the number of operations at O'Hare International Airport will likely increase with the proposed expansion of facilities at O'Hare. The Village, therefore, urges the FAA to require continuous effort regarding a decrease in emissions as O'Hare expands. In that regard, the latest technology on noise and emission control should be incorporated into the design of the possible expansion and the aircrafts that utilize O'Hare International Airport.

Thank you for your assistance regarding this matter.

Sincerely,

Arlene J. Mulder
Mayor



Comment	Response
1	The FAA notes the Village's concern regarding the noise and emissions. The FAA directs the commenter to Chapter 7 of the Final EIS for presentation of potential mitigation measures for both noise and air quality.